

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

- - - - -X
In the Matter of: :
PUBLIC MEETING TO RECEIVE :
COMMENTS ON PROPOSED RULE TO :
AMEND REQUIREMENTS FOR NUCLEAR :
POWER REACTORS CONTAINED IN :
TITLE 10 OF CODE OF FEDERAL :
REGULATIONS PART 73 :
- - - - -X

ASLBP HEARING FACILITY
PACIFIC ENTERPRISE PLAZA 1
3250 PEPPER LANE
LAS VEGAS, NV 89120
Wednesday, November 29, 2006

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- APPEARANCES :
- Jason Zorn
 - Dennis Gordon
 - Rick Rasmussen
 - Ho Nieh
 - Tim Reed
 - Russell Stroud
 - Victor Dricks
 - Cathy Skarpac
 - Eric Skarpac
 - Carol Harris
 - Joseph Deuchert

P R O C E E D I N G S

(Time Noted: 8:30 a.m.)

1
2
3 MR. NIEH: Welcome to the NRC's public meeting
4 on power reactor security rulemaking, and I'm very
5 pleased to have the opportunity to interact with the
6 members of the public that have come to talk with the
7 NRC on this important rulemaking effort.

8 Jason, if you could, could you just go to slide
9 5? I'm going to just jump around a little bit out of
10 order.

11 I want to just take a moment to introduce the
12 NRC staff that are at the table today. My name is Ho
13 Nieh. I'm the deputy division director in the
14 Division of Policy and Rulemaking office of Nuclear
15 Reactor Regulation and NRC headquarters, and our
16 division is responsible for the rulemaking process in
17 NRR for power reactors.

18 MR. REED: I'm Tim Reed. I work for Ho Nieh in
19 the same division in NR and I'm basically the rule
20 making process project manager, one of the main
21 contacts on this rule making supporting our security
22 office in putting this rule out.

23 MR. RASMUSSEN: Rick Rasmussen. I'm the chief
24 of the rule making branch in the Office of Nuclear
25 Security and Incident Response.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MR. GORDON: Dennis Gordon. I work in the
2 security rule making branch with Rick.

3 MR. ZORN: And good morning. I'm Jason Zorn
4 from the office of the General Counsel.

5 MR. NIEH: Okay. And our, Joe, from the
6 facility here would like to make a couple
7 administrative announcements also.

8 MR. DEUCHERT: Just to let everyone know, again,
9 welcome to the NRC's Las Vegas facility, and we just
10 wanted to point out our emergency exits here. In the
11 event of an emergency, we have them on the West side
12 of the room.

13 If you were to leave the room, immediately
14 directly to your right, you will find an emergency
15 exit straight back as well, as well as our lobby.

16 Our restrooms are to the right. We also ask
17 that you only bring water into the room. If you have
18 any questions, please let myself or the security
19 staff know.

20 Thank you.

21 MR. NIEH: Thanks, Joe.

22 Jason, could you go back to slide 2 for me?

23 As again, we're here to take public comments and
24 there are several means by which you can give us
25 comments, either verbally here today at the meeting,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 or you could supply written comments and the
2 information is provided up on the slide package that
3 you have in your handout. And you can also send
4 electronic comments directly to the NRC and we'll
5 consider those as we develop final rule language.

6 Next slide, slide 3 is the agenda for this
7 morning. Given the attendance here, I think we can
8 probably be able to move pretty quickly through this
9 agenda, so we're not going to be here until, I don't
10 suspect we'll be here until 4:30 in the afternoon,
11 but we'll take the time we need to discuss any issues
12 you want to discuss.

13 Okay. So, if you looked at the rule package, it
14 is a pretty big rule package, and I do want to
15 acknowledge the hard work of the staff that went into
16 developing this proposed rule. It was a lot of work
17 and dedication to come up with this comprehensive
18 package, and I know you're going to take some time to
19 read through it and understand all the details of
20 what's being proposed in it.

21 This proposed rule would amend the NRC's
22 regulations related to the physical protection for
23 Nuclear Power Reactors. The proposed rule was
24 published in the Federal Register on October 26th,
25 2006 for a 75 day comment period. That ends on

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 January 9, 2007.

2 The Nuclear Energy Institute has submitted a
3 request to the NRC to extend that comment period, and
4 we're currently considering that request.

5 This draft rule was published earlier this
6 summer for information on the NRC's web site before
7 it was put in the Federal Register, and that was done
8 to allow stakeholders even more of an opportunity to
9 look at the rule language.

10 So the rule making effort was undertaken after
11 the issuance of orders following the September 11,
12 2001 attacks. The NRC chose to undertake this rule
13 making because it recognizes the importance of giving
14 the public an opportunity to participate in the
15 formulation of security policy.

16 The staff that are here today are, you know, we
17 want to take any comments you have and insights on
18 the rule, and encourage your participation.

19 I'd like to turn it over to Rick Rasmussen, who
20 will begin to walk you through the elements of the
21 proposal.

22 MR. RASMUSSEN: Well, I think since it's such a
23 small crowd, maybe we should just have the members in
24 attendance introduce themselves so we all know
25 everybody at this point.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 (Inaudible background talking)

2 MR. STROUD: Rusty Stroud, Arizona Public
3 Service Company, Palo Verde Nuclear Generating
4 Station.

5 MR. RASMUSSEN: Thanks, Rusty.

6 MR. DRICKS: Victor Dricks, NRC Region 4, Public
7 Affairs.

8 MS. SKARPAC: Cathy Skarpac, Las Vegas, Nevada.

9 MR. RASMUSSEN: Why don't you, Eric, introduce
10 yourself.

11 MR. SCARPAC: Eric Scarpac, (inaudible).

12 MS. BARNES: Val Barnes, NRC.

13 MR. RASMUSSEN: Okay. And we have Carol Harris
14 in the back also. From the NRC. Okay.

15 Well, I think most of you know the background,
16 but I'll go through it a little bit.

17 Following the events of September 11, the NRC
18 took a number of actions; issued orders; licensees
19 were required to revise their security plans. It was
20 a rather extensive revision that they did. The NRC
21 reviewed and approved these plans. This effort was
22 completed industry-wide October 29, 2004.

23 This rule making builds on these efforts, and it
24 takes it a little bit further. The objectives of the
25 proposed rule making, they establish generic

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 performance-based requirements that include the
2 requirements of the orders. They fulfill certain
3 provisions of the Energy Policy Act. There's a
4 couple parts of the rule that deal with the
5 authorization for enhanced weapons.
6 They go into some force on force testing issues that
7 were addressed in the Energy Policy Act.

8 We incorporate some insights gained through the
9 implementation and the development of the security
10 plans. It's intended to establish the regulatory
11 framework for future reactors, and that's one of the
12 big benefits of this, is getting things in place for
13 the future reactors and it's got a new requirement
14 that addresses the safety security interface, and
15 we'll talk about that a little more later.

16 There are amended sections in this package, and
17 then new sections. The amended sections, the 7355,
18 which is the requirements for physical protection of
19 license activities and nuclear reactors against
20 radiological sabotage. This is the framework for the
21 sight security plans. Our goal is following these
22 requirements, licensees would develop new plans that
23 very closely resemble what they have today. That was
24 one of our going-in assumptions.

25 7356, which is the personnel access

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 authorization requirements; this regulation was
2 extensively revised and deals with how people can
3 gain access to the facilities.

4 7371, reporting the safeguards events. Some new
5 requirements for suspicious activity to better allow
6 the NRC to get early warning of any kind of
7 activities or going-on in the industry.

8 There are some appendices in part 73. Appendix
9 B, general criteria for security personnel. This is
10 the training and qualification for the guard force
11 members. It talks about the training, initial
12 training, and then the ongoing training that they
13 have to perform.

14 Appendix C, licensees, safeguards, contingency
15 plans. This was extensively revised and contains new
16 requirements for licensees pre-planning how they're
17 going to deal with certain safeguards events.

18 Appendix G, reportable safeguards events. This
19 works with the changes in 7371.

20 The new sections, 7318, firearms background
21 check for armed security personnel.

22 The Energy Policy Act authorized the NRC to
23 establish these requirements for authorizing the use
24 of enhanced weapons at nuclear power plants. The
25 7318 outlines the requirements for conducting the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 background checks that are necessary for obtaining
2 those enhanced weapons.

3 7319, authorization for pre-emption and use of
4 enhanced weapons. This talks about the changes that
5 will be required to licensee security plans and how
6 they actually submit to obtain these new provisions.

7 7358, safety security interface requirements.
8 This was brought to us in a petition and pointed out
9 a regulatory gap that we did not have a regulation
10 that specifically required people to evaluate changes
11 that they make due to security against the impact
12 that it may have on site safety and vice versa.

13 We've always considered that that was an
14 inherent requirement, but it wasn't explicitly stated
15 and so we have a relatively simple new section of the
16 rule that requires licensees to assess and manage
17 these changes. It's very much patterned after the
18 maintenance rule.

19 So that's the general overview. Our plan is to
20 go through this section by section. I'll have Dennis
21 talk a little bit about the major attributes of what
22 each of the sections do, and then maybe we can have
23 some dialogue in the areas of concern.

24 MR. NIEH: And I think, this is Ho Nieh again.
25 With such a small group, I think, jump in at any time

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 if you have any questions on what we're presenting.

2 MR. GORDON: Okay.

3 The first section would be the proposed 7355.

4 And its major attributes, it adds an aspect for
5 defending (sic) depth that was incorporated during
6 the security plan review and then the requirements
7 for protection against a single act, and that's to
8 ensure that the licensee maintains a capability for
9 responding despite a single act occurring. So, it
10 would be multiple acts having to have an effect.

11 Insider mitigation program. The performance
12 evaluation program, or the force on force testing.
13 Requirement for video capture. The uninterrupted
14 power source for intrusion protection systems, and
15 communications. The functionally equivalent alarm
16 stations, and that would be the Kass and Sass, having
17 the same capabilities to respond to an event. To
18 ensure that the protective strategy can be
19 effectively implemented.

20 The Cyber Security Program, which was developed
21 as a result of the orders. Protection requirements
22 in (inaudible) controlled area, which would be more
23 for, in response to the orders and the defense in
24 depth concept of weeding out your detections and for
25 where your site specific analyses have determined

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 that you need something out there to facilitate the
2 protective strategy. And then, requirements for
3 mixed oxide fuel.

4 Appendix B, --

5 MR. RASMUSSEN: Well, do we want to --

6 MR. GORDON: Oh. Do you have any comments on
7 7355?

8 MR. RASMUSSEN: Is there any part of that you'd
9 like to discuss in a little more depth or?

10 MR. STROUD: Actually, yes. Sorry. Coming.

11 MR. GORDON: Do we have a hand mike?

12 MR. ZORN: Just to help me understand how we're
13 going to proceed with the presentation, we've talked
14 about the high level aspects of the proposed rule, or
15 rule change. I do have some questions, but I was
16 thinking that we were going to get into a little more
17 detail, or is this the time just go ahead and bring
18 those questions up?

19 MR. RASMUSSEN: This is the time to go ahead and
20 bring those up. We --

21 MR. ZORN: Very well.

22 MR. GORDON: Thank you, Jason.

23 (Inaudible background talking)

24 COURT REPORTER: Say something.

25 MR. STROUD: Something.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. NIEH: Good. Awesome.

2 MR. STROUD: Is it the Commission's intent to
3 withdraw the orders upon implementation of your rule?

4 MR. RASMUSSEN: That's not been decided. That's
5 one of the open items that we need to evaluate at the
6 end of this rule making, and one of the reasons
7 behind that is the orders contain some very specific
8 requirements that are still safeguards and cannot be
9 put in the public rule. It's my personal belief that
10 at the end of the day we will, but it hasn't been
11 decided by the Commission in any way. It's listed in
12 the second paper that we sent forward with this
13 proposal. It just left that as an open decision that
14 we need to tackle at the end of this.

15 MR. ZORN: Just to add one additional point on
16 that. In the proposed rule, in 7355, the very first
17 paragraph, all currently licensed operators would be
18 required to submit new security plans to update them
19 in accordance with the proposed rules.

20 So, that being said, the security plans that
21 currently are in place that implement the
22 requirements in the orders would be updated to be
23 consistent with the proposed rule and the final rule
24 at that stage.

25 MR. STROUD: Do you have an understanding of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 what amount of time would be given to licensees to
2 revise their security plan?

3 MR. ZORN: I believe it's 180 days to submit a
4 new security plan from the effective date of the
5 rule.

6 MR. STROUD: All right.

7 UNIDENTIFIED MALE: I think it is 180.

8 MR. GORDON: It's stated right up front in 7355
9 A. Or proposed.

10 MR. ZORN: Now that's submission of the plan,
11 correct?

12 MR. GORDON: Yes.

13 MR. ZORN: You have to have the plan submitted
14 to the NRC by the 180 days from the effective date of
15 the rule --

16 MR. GORDON: (Inaudible).

17 MR. ZORN: -- but the NRC still has to go
18 through the review process and approve the plan
19 ultimately before you implement the plan, and during
20 that review process, as the rule also, the proposal
21 would also direct licensees to continue to operate
22 under their current plans until that new plan is
23 approved by the NRC.

24 MR. STROUD: Will licensees submit the plans
25 under the provisions of 5090, 5054 or just --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MR. ZORN: That's --

2 MR. STROUD: -- just a requirement of the new
3 rule?

4 MR. ZORN: The language is notwithstanding the
5 provisions of 5059 or 5054. All licensees will be
6 required to submit a new plan notwithstanding --
7 regardless of whether or not the changes to the
8 security plans would reduce the effectiveness of
9 their security plan. Am I correct in that? Excuse
10 me.

11 MR. GORDON: Yeah. The criteria, or, it's
12 specified in 50.4, which is basically the methodology
13 for submitting them. But as far as submitting the
14 plan, we've got the, in the IO 312 and whatever is
15 the endorsed version, then you would update your
16 current security plan to incorporate the specifics of
17 the proposed rule.

18 There shouldn't be major changes, but there's
19 probably going to be some adjustments needed, and
20 that's where the changes come in. But once they're
21 submitted, the NRC will review and approve those; but
22 in the interim, while we're reviewing them, you would
23 still continue to implement the current security plan
24 at the time of the submittal. So then once we
25 approve the new amended security plan, then you would

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 start implementing that.

2 MR. STROUD: So then you anticipate that upon
3 approval of the new security plans, there will be a
4 certain implementation period similar to the DBT
5 order?

6 MR. RASMUSSEN: Yeah. There would have to be.

7 MR. STROUD: The new regulations in 7318 and 19,
8 I understand that there may be changes in this area
9 depending on work by the Department of Justice. And
10 how will that impact the proposed schedule for
11 implementation?

12 MR. RASMUSSEN: That's to be seen still. The
13 Energy Policy Act authorized this with the provision
14 that we have guidelines with the Department of
15 Justice, and the best way to think of that is a
16 memorandum of understanding between the NRC and the
17 Department of Justice. We've had a lot of
18 interactions on that before the rule. The rule was
19 based on our vision of that memorandum at that time.
20 It may change slightly as it's being finalized.

21 The impact on the rule is yet to be seen. It
22 may or may not require re-noticing of the rule for
23 comment. It's that's basically an OGC decision based
24 on is the change substantial or is it just a minor
25 tweak. The rule itself is an opt-in rule. It's an

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 optional rule, so you don't have to do anything
2 with it should you not want to.

3 The other thing that we're looking at is
4 actually getting the guidelines in place this year,
5 hopefully by summer, and even having it set up so
6 that some people can implement those through orders
7 if they choose to do that in advance of the rule.

8 The requirements would be similar as to those in
9 the proposed rule. It would require you to resubmit
10 your security plan with how you're going to use these
11 advance weapons; obtain all the background checks.

12 You have to address collateral damage, range
13 safety, all those issues that are talked about in the
14 rule. That's still to be developed. But it's not
15 likely that the finalizing of these orders is going
16 to have a significant impact on the outcome of this.

17 MR. ZORN: If I could just make another point on
18 the relationship between the guidelines and the
19 proposed rule. You know, the Energy Policy Act of
20 2005 required us to have these guidelines signed by
21 the Attorney General before that provision of the
22 Energy Policy Act was effective.

23 So until that point, until the attorney general
24 actually assigns the document, those provisions are -
25 - we have no authority to allow licensees to use any

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 of the weapons that would be authorized under the
2 statute.

3 But with respect to licensees, the guidelines
4 are between the NRC and the Department of Justice.
5 They're not between the NRC and the licensees. It's
6 a high level document. It's, you know, sort of the
7 10,000 view of how the program's going to work; how
8 the firearms background checks are going to be
9 implemented; how the weapons are going to be made
10 available; so on and so forth.

11 So the rule text itself, the proposed rule, is
12 the nuts and bolts; the specific details of that
13 program. But we need the legal authority through
14 these guidelines to start implementing that rule. So
15 once we get the guidelines done and agreed on,
16 obviously the proposed rule and the final rule has to
17 be completely consistent with the guidelines; it
18 can't be different.

19 So if there are any differences, you know, we'll
20 have to match up the guidelines and the proposed rule
21 as it stands right now in the Federal register, see
22 what the differences are to determine whether or not
23 we need to re-notice that part of the rule for, you
24 know, another comment period to receive additional
25 comments on and possibly publish it separately from

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the rest of the rule, but that's still one of the
2 possibilities that are being considered by the staff.

3 MR. STROUD: And just a point of clarification
4 on that question, then. Upon approval by the
5 Attorney General, will licensees be able to use the
6 energy policy act to get advanced weaponry --

7 MR. ZORN: No.

8 MR. STROUD: -- prior to --

9 MR. ZORN: No.

10 MR. STROUD: So even subsequent to the Attorney
11 General's approval, licensees would need to wait for
12 --

13 MR. ZORN: That's correct.

14 MR. RASMUSSEN: Well, we're --

15 MR. STROUD: Did you say order? I'm sorry.

16 MR. RASMUSSEN: We're evaluating early
17 implementation through orders.

18 MR. STROUD: Okay.

19 MR. RASMUSSEN: For the people.

20 MR. ZORN: All the guidelines give the provision
21 effect to give the NRC authority to grant a
22 licensee's -- the NRC still has to make its
23 determinations of what the prerequisites for that
24 authority are going to be for licensees. So the
25 guidelines by themselves are going to have no effect

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 on licensees. But it just allows us to start
2 implementing the program.

3 MR. RASMUSSEN: Right.

4 MR. STROUD: And I take it your site is
5 evaluating -- you think you would find that useful?
6 At (inaudible)?

7 MR. GORDON: Potentially.

8 MR. STROUD: Yeah. That's we think too, so.

9 MR. NIEH: Was there, I mean, since we were
10 talking about 7318 and 19, were there any other
11 points we wanted to make? Because that was actually
12 one of our later slides as we were going through each
13 section.

14 MR. RASMUSSEN: Well, one of the issues with
15 7318 and 19 and one of the things that we've been
16 going back and forth with Department of Justice on is
17 how you actually get it started. And the vision
18 that's currently in the rule and the one that I hope
19 survives is step 1 is you apply to us and whether
20 it's done through rule or order, it doesn't really
21 matter.

22 We grant you authority to start the background
23 checks. This will be a new process to you. It's the
24 NICS background check. Submit the fingerprints and
25 the information to us. There's a new form that's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 part of this package.

2 Once you have a sufficient number of your staff
3 cleared through that process to implement the plan,
4 then we grant you pre-emption and/or enhanced
5 weapons. The only gotcha from your perspective that
6 I'm aware of is once we grant that pre-emption
7 authority, you won't be able to allow anybody who
8 doesn't have a valid NICS check access to a weapon.
9 And so you have to make sure that you get enough
10 cleared people and then maintain them.

11 We don't anticipate that that's going to be a
12 problem for you. It's no different than the current
13 requirements for your guard force owning guns. It's
14 just that it's never been processed through the NRC
15 before.

16 MR. ZORN: One more point about the background
17 check. Just to be clear, the background that would
18 be required under 7318 is different from the
19 background checks that are already being required for
20 unescorted access or access to SGI. It's a very
21 specific access to weapons, and it's right out of the
22 Gun Control Act, the Brady bill in terms of
23 determining someone's suitability for access to
24 weapons, and includes a much broader category of
25 disqualifying criteria than a normal criminal history

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 check would include.

2 So it is very distinct, so a licensee, for
3 instance, couldn't rely on background checks it had
4 already done on security officers to satisfy these
5 requirements, if that makes sense. There's a very
6 specific data base, this NICS system, that you have
7 to tap into to determine if an individual has subject
8 to one of these disqualifying events.

9 MR. STROUD: As a follow-up question, Jason, the
10 criteria, this disqualifying criteria, is that
11 available for licensees to review?

12 MR. ZORN: Yes. It's in the Gun Control Act,
13 which the statute is 18 USC 922. That's the Brady
14 bill provision. So, I, you know, I can't tell you
15 off the top of my head. I believe there's 9
16 disqualifying criteria and it includes certain you
17 know, I don't want to restate it necessarily, but you
18 know there's felony convictions, you know, greater
19 than one year. There's if you've been dishonorably
20 discharged from the military, things like that which
21 wouldn't, you know, if you've been dishonorably
22 discharged from the military, it's not going to show
23 up under a criminal history check. But it would show
24 up on a NICS check as a disqualifying event.

25 And I believe, you know, another criteria is a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 fugitive from justice.

2 MR. GORDON: Domestic violence.

3 MR. ZORN: There's a domestic violence
4 disqualifier. So that's the statute that it's in,
5 but I'm not sure how much detail -- I don't think the
6 proposed rule itself goes into a lot of detail about
7 those events.

8 I can give you a more specific statutory
9 citation off line if you'd like to get that too.

10 MR. STROUD: And just a confirmation following
11 that comment was that, this is completely separate
12 from any background checks that persons that would
13 not have access to this weaponry would require? So
14 there's no change for existing background
15 checks/security personnel under this part if they are
16 not or wouldn't have access to this advanced
17 weaponry. Is that right?

18 MR. ZORN: That's true.

19 MR. STROUD: Okay.

20 MR. ZORN: But that's the, I think that's the
21 sort of the bump that Rick was suggesting before was
22 that, if you as a licensee come in and apply for
23 authority for enhanced weapons, the rule would
24 require you to also apply for this pre-emption
25 authority as well.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Once you're granted the pre-emption authority
2 for the enhanced weapons, it's going to implement the
3 firearms background checks for all of your security
4 personnel regardless of whether they have access to
5 advanced weapons or just the normal set of covered
6 weapons.

7 MR. NIEH: That's right.

8 MR. ZORN: It's --

9 MR. STROUD: I'm sorry, would you mind repeating
10 that, please?

11 MR. ZORN: It's complicated.

12 MR. GORDON: Basically those who have weapons
13 right now, even though they may not be given access
14 to the enhanced weapons, they would still need to go
15 under the same background check as those who do get
16 the enhanced weapons because of the exemption
17 authority that you would be granted.

18 MR. NIEH: The criteria would be access to
19 weapons.

20 MR. RASMUSSEN: That's the pre-emption authority
21 --

22 (Simultaneous speaking)

23 MR. RASMUSSEN: If they have access to weapons,
24 once you've made this application they need to be
25 cleared.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. STROUD: So all orange personnel would be
2 subject to the NICS check.

3 MR. REED: This is Tim Reed. Maybe this will
4 help, because a lot less detailed knowledge is, but
5 it's kind of an all or nothing thing. If you're a
6 licensee that wants to implement 7318 and 19, well
7 then basically you've got to do it for everybody, the
8 new background checks. If you're a licensee that
9 does not implement it, you're under the old system
10 forever. You don't have to ever change to it. So is
11 that --

12 UNIDENTIFIED MALE: That's accurate.

13 MR. RASMUSSEN: And the rule is specifically
14 written so that, like your security admin staff that
15 does not have access to weapons, they would not have
16 to go through that.

17 MR. ZORN: And one final point on this, just to
18 be clear, that 18 USC 922 is currently applicable to
19 every individual in the United States for access to
20 weapons, and that's what gun dealers, Federal
21 firearms licensees, they use this NICS data base. If
22 you were to walk in right now to a gun store to buy a
23 weapon, they would do a NICS check on you. And so
24 this statute is currently applicable. So that would
25 be, you know, if you were accessing as additional

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 weapons the officers that currently have access to
2 weapons at the site would then actually have to
3 officially go through it through the NRC.

4 We haven't had the authority to run a NICS check
5 through the FBI prior to the statute. Normally it's
6 Federal firearms licensees or State authorities that
7 are able to request a NICS check for the FBI, not
8 another Federal agency. This is kind of a unique
9 situation.

10 MR. NIEH: Should we move on to the next
11 question? Or did you want to keep talking?

12 MR. GORDON: He was getting on this list.

13 MR. NIEH: Yeah, we were, not, yeah, we probably
14 weren't exactly clear up front. We were going to
15 walk, every section that was being changed in the
16 proposal we were going to walk through sort of at a
17 high level and get into some of the detail, but we
18 can --

19 MR. GORDON: Did we want to do that all at one
20 time, or did we want to section it out?

21 MS. SKARPAC: That would --

22 MR. NIEH: If you want to just bring your issues
23 now, then we can cover anything we missed at the end,
24 and that works as well.

25 UNIDENTIFIED MALE: Uh-huh.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. NIEH: We've got time and you're our
2 audience here.

3 MR. STROUD: With regard to the safety security
4 interface requirements, I believe, I don't have it
5 with me, but I believe it was IN 2005-033 that was
6 based on this subject?

7 MR. NIEH: Yes.

8 MR. STROUD: As I read through the documentation
9 for the proposed rule, it appears to me that there
10 would be a higher level of review established and I
11 guess my question would be in the proposed rule,
12 would plant or facility changes be required to be
13 reviewed at a level commensurate or equivalent to a
14 5059 review for future plant changes?

15 MR. RASMUSSEN: I don't think at that level. We
16 actually purposely stayed out of 5059 space. But my
17 implementation vision for this would be a check block
18 on your maintenance work authorization, that kind of
19 paperwork, that, you know, plant facility type items
20 have been screened by somebody knowledgeable of
21 security for impact on the security plan and its
22 implementation and conversely, any of the items that
23 you do that are security generated would get some
24 kind of perhaps an SRO review for potential plan
25 impacts.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 And we're worried about things -- changes to
2 access, if during a certain plant event they have to
3 get into an area and turn a valve with a ladder and
4 you guys have a security barrier that locks that up,
5 it's a problem.

6 MR. REED: This is Tim Reed at NRC. I think,
7 you start off with kind of 5059, which, in our mind,
8 at least my mind, is more like a configuration type,
9 facility type change. I think those have been done
10 very well for years, exhaustively, throughout all the
11 different parts of the plant, making sure that any
12 impact there is assessed appropriately.

13 I think, like Rick was saying, this is more the
14 off-normal type situation, where something comes up,
15 a situation where you have to send people. It's
16 ingress/egress type areas where you don't want to
17 have adverse interactions between security people and
18 plant operations people and maintenance or any of
19 those three, you know, and to get into well, I'll
20 call it off-normal situation. That's kind of what I
21 think we were mostly worried about. I mean, you
22 know, that won't get addressed as both situations,
23 but, is that a fair statement?

24 MR. NIEH: Yeah. But I think really what we're
25 just trying to get at is, just, you know, we want you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 to look at the things you're doing at the plant,
2 things that you're doing in the interest of safety
3 and asking yourselves does it have an adverse impact
4 on the security at the facility and vice versa, and
5 it's, I guess the process as I read the rule and
6 think about it is more akin to what licensees are
7 doing in the maintenance rule with assessing risk
8 from certain maintenance activities. Not doing a
9 5059 evaluation, per se, but it's more, you know,
10 assess the impact of the plant on your activity.

11 MR. STROUD: Okay. Thank you. I didn't see a
12 change to 5054 and typically security changes to your
13 security plan, to security features, you do a
14 reduction of effectiveness review under 5054 and
15 (inaudible) but there was no change in that area.
16 I'm just wondering, based on your feedback a moment
17 ago, how would -- I'm just thinking the nuts and
18 bolts of this.

19 MR. RASMUSSEN: Yeah. Well, and that's a very
20 good example, because a 5054 P change, you decided
21 that you want to either install or remove a doorway.
22 And, this is an explicit requirement now that you
23 evaluate that impact on plant safety and the
24 emergency plan.

25 It was our belief that you would have done that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 review before, but when we were challenged, we
2 couldn't point to a regulation that said do that
3 review.

4 MR. REED: We think that 5054 P is doing it well
5 for security. Like we think 5059 is doing it well
6 for the operations side, you know, design and
7 (inaudible) those things. The question becomes when
8 you know you're a cross between security to
9 operations/maintenance, emergency preparedness. When
10 you cross these different areas, that that's the
11 issue where we couldn't somewhere and say, well, we
12 have an explicit requirement right there, yeah, we
13 got it, and we think it's there. You know?

14 People are going to, of course, do things at the
15 facility that -- they don't want to do things in
16 operations that adversely affect security. They
17 don't want to do things in security that adversely
18 affect operations or maintenance, of course. And,
19 you know, you have daily meetings to try to avoid
20 these types of situations.

21 And so this is kind of a, hopefully it's just
22 institutionalizing what you do, I hope. And not
23 having a significant impact.

24 MR. RASMUSSEN: It's my belief that if you did
25 something of that nature and it was of significance,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 we don't need this rule to cite it. We can cite
2 against the adverse interaction that it had to your
3 safety systems; the adverse interaction to your EP
4 program. We don't need this rule, you know, as
5 another thing to cite against, but it is an explicit
6 requirement to guide you to do these reviews.

7 MR. STROUD: Okay, so just to, I believe,
8 confirm what I just heard, if a licensee has a
9 sufficiently rigorous safety evaluation program and a
10 sufficiently rigorous security program in place that
11 evaluates change for reductions in effectiveness,
12 then this would not have a significant impact to that
13 licensee?

14 MR. RASMUSSEN: That's our belief. And the
15 language of this rule cannot get any more performance
16 based. It is assess and manage. So we hope you're
17 doing it already. We just want to have it explicitly
18 pointed out in the rule.

19 MR. STROUD: Can you give, from a high level
20 standpoint, can you give me an idea of the expanded
21 force on force requirements as their impacted by the
22 Energy Policy Act 2005? In particular, the exercise
23 periodicity or the clause for potential conflicts of
24 interest?

25 MR. RASMUSSEN: Right. The Energy Policy Act

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 required that the NRC conduct the evaluations every
2 three years, and so that's now part of the rule.
3 We've been doing it, but this formalizes our
4 expectation that we're going to do it every three
5 years.

6 With regard to the conflict of interest, the
7 Energy Policy Act mandated that we eliminate any
8 potential conflict of interest. We believe we're
9 doing that already through our arrangements that are
10 currently in place for obtaining and funding and
11 evaluating the combined adversary force and so by
12 putting it in the rule, it makes it just a specific
13 requirement, but we believe we're already there. We
14 don't see that being an impact.

15 MR. ZORN: Just to be clear, the Energy Policy
16 Act says that our obligation is to mitigate the
17 potential effects of conflict of interest, not
18 eliminate them.

19 MR. REED: But we have, and Dennis, in 7355, we
20 have requirements for quarterly drills and annual
21 force on force.

22 MR. GORDON: Right.

23 MR. REED: And then the NRC is involved with at
24 least one every three years. That's correct?

25 MR. GORDON: Say that again?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. REED: The NRC actually gets involved with
2 every --

3 MR. GORDON: Right.

4 MR. REED: -- once every three years --

5 MR. GORDON: We actually go out and conduct --

6 MR. REED: -- a force on force but --

7 MR. GORDON: (Inaudible - simultaneous speaking)
8 question.

9 UNIDENTIFIED MALE: I think that's what's
10 standard for right now.

11 MR. REED: Was going towards the quarterly
12 drills and the annual force on force? Is that where
13 your question was directed?

14 UNIDENTIFIED MALE: Yes.

15 MR. RASMUSSEN: Yes.

16 MR. GORDON: Yeah. The conflict of interest is
17 only applicable to the NRC observed force on force.

18 UNIDENTIFIED MALE: Can't find it, though.

19 MR. GORDON: That's (inaudible).

20 UNIDENTIFIED MALE: Right.

21 UNIDENTIFIED MALE: (Inaudible).

22 MR. STROUD: With regard to the accelerated
23 notification and revised four hour reporting
24 requirements, with the proposed rule, does it specify
25 who can make the notifications, and are the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 notifications made through the headquarters
2 operations office or similar to 5072 reports?

3 MR. GORDON: Yes, they are. I don't believe we
4 specified who.

5 MR. RASMUSSEN: It doesn't specify who. I
6 believe it says just a licensee shall make
7 notification.

8 MR. GORDON: As far as on the licensee side, who
9 can, no. It doesn't specify that. It just says the
10 licensee will report those items to the NRC operation
11 center.

12 MR. STROUD: Okay. Because I was thinking that
13 certainly in the eminent threat area, plant operators
14 are going to be busy, especially at a multi-unit
15 site, preparing their units, and it would be
16 beneficial if other, or staff other than the control
17 room staff could make those notifications. So that
18 is allowed?

19 MR RASMUSSEN: Yes.

20 MR. STROUD: Okay. Is it also allowed that
21 these notifications can be made from places other
22 than the dedicated headquarters operations officer
23 lines in the control rooms?

24 MR. GORDON: No. The standard line to make the
25 notification would be through that system.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. NIEH: Well, I think Rusty's asking, you
2 would call into the emergency operations center, the
3 301-816-5100 number?

4 MR. GORDON: Right. Right.

5 MR. NIEH: Whether you use the ENS line or the
6 commercial line is really up to you. I mean, that's
7 the way --

8 MR. STROUD: That's my question.

9 MR. NIEH: -- we're taking notifications right
10 now.

11 MR. STROUD: Under 5072 --

12 MR. NIEH: Right?

13 UNIDENTIFIED MALE: Right.

14 MR. STROUD: -- we're required to make over that
15 dedicated line.

16 MR. RASMUSSEN: Okay. Very well. Thank you.

17 MR. NIEH: Because, in fact, some of the 5072
18 lines that come in come in via the commercial line,
19 because there's, you know, a number of years ago we
20 gave the option of the various phone systems you
21 could use to make those types of notifications.
22 Because some facilities, they didn't have the FTS
23 system anymore, and they were using a commercial
24 line.

25 MR. STROUD: A question regarding whether or not

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 consideration was given to relaxing some of the one
2 hour reporting requirements under 7371. It's been
3 awhile now since licensees were -- since the 50.72
4 rule change allowed for a relaxation of reporting
5 requirements for a number of plant events, and
6 currently, for security, it appears that we're
7 maintaining the one hour reporting criteria. We're
8 adding some 15 minute criteria, and we're also adding
9 some four hour reports as well. But just out of
10 curiosity, was there much debate in this area?
11 Because it appears to me, having made several one
12 hour notifications, I'm not sure that, let me put it
13 this way.

14 Making a one hour report on a security related
15 event is, a lot of times results in very sketchy
16 information. And I was just curious if there was
17 thought given to relaxing this to possibly two or
18 four hours because a lot of times, if an additional
19 hour or three were given, licensees would be in a
20 much better position to discount quite a many of
21 these calls.

22 In a one hour time frame, you were required to
23 make a decision very quickly on information that you
24 don't have a lot of time to consider.

25 MR. GORDON: We actually had a lot of dialogue

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 over the appropriate time frames; the uses of the
2 information being provided; and what we needed to do.
3 We would appreciate getting any specific
4 recommendations that we can evaluate point by point.
5 I think that would be the most useful at this level.

6 MR. GORDON: And consider the intent here was to
7 incorporate or to articulate those reporting
8 requirements that were being added, and not change
9 those that already existed.

10 MR. STROUD: But I'm understanding you would
11 entertain comments in that area?

12 UNIDENTIFIED MALE: Yes.

13 MR. RASMUSSEN: Absolutely.

14 MR. GORDON: Uh-huh.

15 MR. STROUD: Okay. Very good.

16 MR. NIEH: Russ, let me just take you back to
17 the communications, because I was looking at one of
18 the statements of considerations here for the means
19 by which you notify.

20 Again, we're asking you to use the ENS line,
21 which is the typical line you use for reporting. But
22 if you get into the statements of consideration, we
23 have language in there that says or other dedicated
24 telephonic system designated by the Commission if the
25 licensee has access to that system, which we put that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 in there to allow flexibility in the ways you could
2 communicate with us.

3 It's actually in the rule. It's in the
4 statements of consideration.

5 MR. STROUD: Okay. So I'm understanding that
6 there's flexibility there, but I thought what I heard
7 you say was that since we have dedicated ENS lines --

8 MR. NIEH: Right.

9 MR. STROUD: -- that's what we would be using.

10 MR. NIEH: Yes. And there is a provision to use
11 other -- we just used the word other system for
12 flexibility.

13 MR. STROUD: Oh. Okay.

14 MR. NIEH: So.

15 MR. STROUD: And I guess what I was anticipating
16 was that if there was an eminent threat, control room
17 staff, like I said, would be concerned primarily with
18 putting the units in a safe position, whereas
19 security personnel would be in a much better position
20 to make that notification.

21 MR. NIEH: Yes.

22 MR. STROUD: I was just looking for that --

23 MR. NIEH: Yes.

24 MR. STROUD: Okay. Within that same section,
25 the reporting of suspicious activity and tampering,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and forgive me for not being able to have gotten
2 that deep into your proposed rule, but from a general
3 standpoint will the rule or will the subsequent reg
4 guide give licensees detailed information on what the
5 Commission and the staff feels reaches the threshold
6 of tampering?

7 MR. NIEH: Yes. The reg guide's currently being
8 rewritten and should be out for review by April.

9 MR. GORDON: We're hoping it will be out pretty
10 soon. We've done some substantial revision to it.
11 As you know, in the past, before 9/11, 562 was being
12 revised a couple of times and was even published once
13 for public comment, but was never followed through as
14 a final.

15 So, all of that information that was accumulated
16 during that time period plus what we learned since
17 911 is incorporated into the guidance and so when
18 it's published, please let us know if we hit the mark
19 or not.

20 MR. REED: Hey, Rusty, I don't know if you've
21 gotten back to Appendix G yet. Have you gone
22 through?

23 UNIDENTIFIED MALE: (Inaudible).

24 MR. REED: Yeah, because it's, for rule language
25 in Appendix G, and in paragraph 3, it's for specific

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 activity. It has relatively a lot of detail for
2 rule language. It's not going to be the kind of
3 thing you really need, like, what they're discussing
4 about the reg guide, but it goes into suspicious
5 activity may involve or may be indicative of
6 potential pre-operation surveillance, reconnaissance
7 or intelligence-gathering activities directed against
8 the facility.

9 Such activity may include but is not limited to
10 attempted surveillance or reconnaissance activity,
11 elicitation of information from security or other
12 site personnel related to the security of safe
13 operations plan or challenges to security systems,
14 and they give you some examples; failure to stop for
15 security checkpoints, possible test of security
16 response; and security screening pool or suspicious
17 entry of watercraft into posted areas.

18 So they actually have a fairly good for rule
19 language at that level, level of detail there. I
20 don't know if you had gone back, because that's
21 towards the end of the package, so I just wanted to
22 point that out to you.

23 MR. NIEH: Page 62874.

24 MR. RASMUSSEN: Actually, mine's 6284.

25 MR. REED: It's in paragraph 3(a), Roman Numeral

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 3(a) of Appendix G. That's the suspicious activity
2 part. Tampering is in 3(b). But we don't have as
3 much detail for tampering.

4 MR. RASMUSSEN: I think as a general rule, I
5 mean, these guys can correct me if I'm wrong. A lot
6 of this rule language is fairly high level in most
7 cases that it has to be for SGI reasons. A lot of
8 the details, for all this implementation are, in
9 fact, going to be in the reg guides, which are all
10 being revised.

11 MR. STROUD: Follow-up question for Dennis.
12 Dennis, I'm sorry, I know you told me this, but when
13 did you say that the reg guides were hopefully going
14 to be on the street?

15 MR. GORDON: We're working towards April, the
16 end of April of '07. To have it proposed published
17 for comment, and then we're working to have final reg
18 guidance to go along with the final proposed rule.

19 MR. STROUD: With respect to mitigating
20 strategies, this appears to be very similar to the
21 overall goals established in Bravo 5 Bravo (phonetic)
22 of the interim compensatory measures order of 2002.
23 Do you anticipate, well, licensees are currently
24 completing their actions under Bravo 5 Bravo, phases
25 1, 2 and 3.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 UNIDENTIFIED MALE: Yes.

2 MR. STROUD: Do you believe that the proposed
3 rule will impact any of the actions taken by
4 licensees in this area?

5 MR. NIEH: No. The intent is, and I'm closely
6 connected with the Bravo 5 Bravo, or B5B effort back
7 at the office; the intent is that when the rule goes
8 final, the way the language is written in the rule,
9 you'll be in compliance with it based on what you've
10 done in closing out that element of the order.

11 MR. STROUD: Okay.

12 MR. RASMUSSEN: And again, it's necessary to
13 capture that in the rule for the new reactors going
14 forward, even though you're currently in compliance.

15 MR. STROUD: With regard to access authorization
16 enhancements, specifically requirements for
17 individuals who have electronic access to safety,
18 security or emergency preparedness systems, computer
19 systems. It appears that this could apply to vendors
20 who develop software as well as off-site engineering
21 groups who develop security systems and -- am I
22 reading that right? Is that the intent here?

23 MR. RASMUSSEN: We're lucky enough to have the
24 experts on this arena in the audience here, so.

25 MR. SKARPAC: I believe the expectation is if

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the vendor that has developed the software still
2 has access to the software in use then yes. But if
3 it's software that they've developed and handed over
4 and they can no longer access that, then you wouldn't
5 have to. Does that make sense?

6 So it's basically if anyone can access through
7 electronic means a particular system that's
8 identified in the rule language that they would have
9 to have access authorization granted.

10 MR. RASMUSSEN: And we would be relying on the
11 procurement process and the testing prior to delivery
12 and then once you have control of it, you have to
13 maintain the fidelity of it, and this is to do that.

14 MR. STROUD: Would it be incumbent on the
15 licensees to perform some sort of verification that
16 the vendor no longer has access?

17 MR. RASMUSSEN: I don't think there's an
18 extensive number of systems that even have outside
19 access that are of this critical nature, so I don't
20 think it's that difficult as it's currently
21 implemented, but yes, it would be incumbent on the
22 licensees.

23 MR. SKARPAC: Yeah. I mean, you probably know
24 everyone who's accessing your system, so the
25 expectation would be that you would know who has

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 access to your system electronically and anyone
2 that you granted this access to would be subject to
3 the access authorization requirements.

4 MR. STROUD: Now with regard to training and
5 qualification enhancements, I understand that there
6 are no requirements for unarmed security staff, but
7 beyond that, there is new requirements, or at least
8 it's my understanding that there are new requirements
9 that specify qualification scores and qualification
10 requirements for security trainers.

11 Is there any language in the proposed rule that
12 is beyond existing orders in this area?

13 MR. RASMUSSEN: Yes. Yes, it is. Specifically,
14 the requirements for unarmed people that they have to
15 be physically fit, vision, hearing, medical, physical
16 fitness commensurate with their duties. So, just
17 because you take the gun off of somebody, if they're
18 doing checkpoint inspections or something, they have
19 to be appropriately fit to do that job. And then
20 there's an annual upkeep requirement associated with
21 that.

22 The on the job training
23 documentation/certification, those are new
24 requirements. Qualification of the security
25 instructors, we feel that a security instructor

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 qualification is appropriate. And the armor
2 certification. And those would be the new
3 requirements.

4 MR. STROUD: With regard to armor
5 certifications, is that like a National Rifle
6 Association certification or? Who is the certifying
7 body there? Is that --

8 MR. RASMUSSEN: Yes. There are some accepted
9 industry standards. I'm not the expert in that. I
10 don't know if we outlined those in the --

11 MR. GORDON: Basically it just has to be a
12 recognized certifier recognized by, say, police
13 forces or, you know, NRA type, where they have some
14 type of acceptable standard that the certifier or the
15 armor would have to meet. And it has to be specific
16 to the weapons for which that armor would be having
17 to act as the armor. And, you know, he has to know
18 his weapons. He has to be able to maintain them, and
19 he has to have some type of certification that says
20 in fact he's demonstrated that he can and has that
21 knowledge skills and abilities.

22 MR. STROUD: Moving on to the security program
23 implementation insights, the new requirements for the
24 central alarm station and secondary alarm station to
25 be, for the lack of a better term, equivalent such

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 that no single act could disable the function of
2 both Kass and Sass (phonetic).

3 MR. RASMUSSEN: Yes.

4 MR. STROUD: No single act. That's kind of a
5 broad term. Let's say, hypothetically, a meteor
6 could strike and take out both. Clearly I don't
7 think that's where the rule is headed, but is this
8 single act defined?

9 MR. RASMUSSEN: It would be --

10 MR. STROUD: I mean, is it within the confines
11 of the DBT or --

12 MR. RASMUSSEN: Yes.

13 MR. STROUD: I'm curious.

14 MR. RASMUSSEN: Yes. It's absolutely bounded by
15 the DBT.

16 MR. GORDON: And that's stated so.

17 MR. RASMUSSEN: And an important piece of that
18 is the concept of functionally equivalent. You have
19 a security plan and a strategy. You have a number of
20 ways of working through various scenarios to
21 implement the plan, to protect the plan. And so the
22 concept is no single act, such as a, you know, a
23 single explosive device would likely take out your
24 ability to implement the plan by removing both of
25 those.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Now the rule goes further for new reactors,
2 requiring the Kass and Sass to be equivalent, period.

3 MR. GORDON: Inside the PA and all the other
4 requirements that go with it. We're not requiring
5 that currently of the current fleet, but the proposed
6 rule would require the functional equivalency in that
7 you'd have to make sure that a protective strategy
8 can be effectively implemented despite a single act.

9 So if you're depending on certain aspects of
10 your program to, as part of your protective strategy,
11 you need to make sure that one single act, or the
12 initiating act, if you will, can't take out the
13 capability for you to satisfy that protective
14 strategy aspect.

15 MR. STROUD: How specific are the requirements
16 for the qualifications for drill and exercise
17 controllers? Just, I know it's a broad question,
18 but, I mean, are they equivalent to a controller in
19 an emergency planning exercise or job-specific
20 qualifications?

21 MR. GORDON: The intent is that the way force on
22 force exercises are now being conducted the training
23 and qualification of the controllers would be
24 consistent with that.

25 The specifics will be addressed in regulatory

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 guidance, but the intent is that the controller
2 knows enough about what's going on in order to make
3 educated decisions in how the exercise is being
4 conducted or evolving. They have to have certain
5 knowledge, skills and abilities in order to make
6 those scenario decisions, if you will. So that's
7 where the training and qualification comes in.

8 MR. STROUD: So, information relative to force
9 on force controllers would be captured in the red
10 guide that matches up with the T and Q plans? Let me
11 clarify.

12 I understand that there are three proposed red
13 guides; security plan, training and qualification and
14 contingency. So, these requirements would be
15 captured in the training and qualification portion of
16 the proposed reg guides?

17 MR. GORDON: The proposed reg guides go along
18 with the proposed rule, and performance evaluation is
19 being addressed in Appendix C. So the controller
20 training, because of its relationship back to the T
21 and Q, it may be captured in both. We haven't come
22 to any final conclusion as to exactly where, but the
23 odds are it would be addressed at least in part in
24 both, but more completely most likely in the
25 contingency planning, because that's where

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 performance evaluation program appears.

2 MR. STROUD: Well, that concludes my questions.

3 MR. NIEH: Other than that, he loves it.

4 MR. STROUD: Yeah. Actually I'd --

5 MR. RASMUSSEN: Well, is there any part of it
6 you would just like us to ramble on more about,
7 because we're certainly capable.

8 MR. NIEH: Russ, you may have picked up a packet
9 of material also when you walked in. There is the
10 presentation that we have that gives an overview of
11 all the sections that are being revised in the
12 proposed rule, so, of course, feel free to use that
13 as a guide as you walk through the rulemaking
14 package.

15 MR. RASMUSSEN: And, I guess, additionally, as
16 you're reviewing this, Rusty, I would point you to
17 the regulatory analysis that's referenced from there
18 and the Exhibit 4-2 towards the back of that.

19 It lays it out section by section on the large
20 things that we see as being impacts that are above
21 and beyond. We did this analysis from the
22 perspective of life today is life today. The orders
23 were issued. Those costs have been occurred and
24 implemented and these are the things that are going
25 beyond and we put costs in here for things that we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 think that you will review, like the single act.
2 If we were vastly aware of those, we would be
3 exploiting those in force on force testing right now.
4 We're not. And so, but we still expect, as a result
5 of this rule, that you're going to have to go back
6 and do another hard scrub.

7 MR. STROUD: Okay.

8 MR. RASMUSSEN: And so there is some cost
9 associated with that.

10 MR. GORDON: And the single act is a current
11 requirement, however, it's been expanded from its
12 current concept of communications to entail the whole
13 protective strategy or lacency (phonetic) capability
14 to protect rather than just have only maintaining the
15 capability for communicating.

16 MR. REED: I would just add to what Rick was
17 saying, it's Tim Reed again, on the reg analysis. We
18 really tried the best we could to identify all of the
19 new items that went beyond what's currently in place
20 in terms of orders and regulations right now.

21 We're not perfect. This is 1,000 pages, and if
22 we have missed something or you think or anybody out
23 there thinks that there's a requirement that wasn't
24 captured there, we're certainly interested in
25 identifying that and determining one, whether we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 intended that or if it's inadvertent and of course
2 if it's inadvertent we'll fix that. And if we did
3 intend it and we didn't capture it, then of course
4 we'd want to capture that. I'd just point that out.

5 That's where we really did some feedback or we'd
6 like to have that kind of feedback, and another area
7 we tried to really do our best in was to estimate the
8 costs associated with these. And of course the
9 people out there at the facilities are implementing
10 these regulations know these costs far better than we
11 do, so we are really interested in getting some
12 feedback on whether we captured these costs showing
13 or we're showing the true impacts of these new
14 requirements because ultimately we want to give the
15 Commission the best information and the most complete
16 information we can so that they can make a decision
17 ultimately whether these new requirements that go
18 beyond the orders and the current regulations are in
19 fact something they really truly want to implement in
20 the final rule both for you current licensees and
21 also new reactor impact also.

22 So it's a very important area, I think, the new
23 requirements, and getting good feedback in that area.

24 MR. STROUD: Following up on that comment, have
25 you received extensive comments?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. REED: Today we --

2 MR. NIEH: Not at this point.

3 MR. REED: Yeah. To date we haven't. I think
4 it's indicative of the fact that people are still,
5 you know, plowing their way through it. We just
6 received one comment right before we came to the
7 meeting. It was a good detailed comment, but, and
8 you can go on the web site, you know, if you're
9 familiar with the web site, you can see. I just got
10 it ready. I didn't even have the chance to read
11 through it all, but it was in the definitions area
12 and weapons and the definition, so it looked like a
13 good, kind of comment I like to see where it's an
14 expert who's looking at something and decided well,
15 have we got the definition right. Should it be, you
16 know, modified or expanded and that's a very good,
17 constructive comment that we got. But that's the
18 first one, and I think it's more indicative of the
19 size of this package and how I think resource-
20 constrained the security people are in the industry.
21 So.

22 MR. NIEH: We recognize that. I know that's one
23 of the reasons why we embarked on having public
24 meetings early on to get early input and feedback on
25 the proposed rule, depending on how much feedback and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 comment we get subsequent to today, there may be
2 opportunities for other opportunities to interact
3 with our stakeholders, but we'll have to see as
4 comments come in.

5 MR. STROUD: Well, I'd clearly encourage NRC to
6 consider that.

7 MR. NIEH: Yeah.

8 MR. STROUD: Because as licensees have the
9 opportunity to go through in detail, I'm sure there's
10 going to be a need, or I think I speak for all the
11 licensees that it would be very beneficial to do this
12 again.

13 MR. NIEH: Okay.

14 MR. STROUD: And I'm also understanding that
15 other than just some minor -- there have only been a
16 few minor comments received so far.

17 MR. REED: And the comment period ends January
18 7th.

19 MR. GORDON: Yeah. That's assuming it doesn't
20 get extended.

21 MR. REED: January 9th.

22 MR. GORDON: Assuming it doesn't get extended,
23 that's correct. And NEI requested a 60 day
24 extension, which is, as Ho has already mentioned, is
25 under consideration right now. Also I might add, I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 think the State of Pennsylvania also, in the public
2 meeting we had, first public meeting requested I
3 think 45 days verbally. So, we've gotten the State
4 of Pennsylvania and also NEI a written request.

5 MR. NIEH: Any other comments from the folks in
6 the room? Questions?

7 No. Okay. Well, with that, I'd like to adjourn
8 the meeting and thank you for your attendance and
9 participation. You asked some good questions for --

10 MR. STROUD: Thank you, Sir.

11 MR. NIEH: -- opening up. Thank you.

12 (Proceedings Concluded)

13

14

15

16

17

18

19

20

21

22

23

24

25

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701