

**Public meeting to gather Information concerning the questions POSED BY The
COMMISSION in Staff Requirements Memorandum (SRM) COMGEA/COMWCO-14-0001
(Open Session)**

The following is a summary of the open session of the Category 3 Public meeting held on May 5, 2014. The meeting was chaired by Dr. Ralph Way, Senior Technical Advisor for Security, U.S Nuclear Regulatory Commission (NRC), Office of Nuclear Security and Incident Response. Dr. Way opened the meeting and introduced himself, Mr. Clay Johnson, Chief, Security Performance Evaluation Branch, and Mr. George Smith, the meeting's facilitator.

Dr. Way directed the meeting participants' attention to a panel of subject matter experts (SMEs) seated to his left and asked them to introduce themselves. The SMEs were members of a working group that had been assembled to respond to the Staff Requirements Memorandum (SRM). The SMEs were; Mr. John Cherubini (Inspection and Regional Perspectives), Mrs. Rebecca Richardson (Category I fuel Facilities), Mr. Adam Gendelman (Office of General Counsel), Mr. Scott Sullivan (Reactor Oversight Process), Mr. Jim Whitney (Intelligence/Threat), Mr. Nick Baker (Office of Nuclear Material Safety and Safeguards), and Mr. Bill Cartwright (Office of Nuclear Reactor Regulation) .

Dr. Way stated the objective of the meeting was to gather comments and insights from the public on SRM, "Proposed Initiative to Conduct a Lessons-Learned Review of the NRC's Force-On-Force Inspection Program," and specifically nine questions posed by the NRC Commission in the SRM.

Dr. Way noted that the meeting would be recorded.

Dr. Way explained that Mr. George Smith would facilitate the meeting. Dr. Way explained that a second session would begin at 13:00 and that session would be closed so that controlled information can be discussed. He announced that escorts would be made available to bring cleared individuals to the closed meeting room.

The Facilitator explained that his goal was to make the meeting move forward in a smooth manner so that we could gather as many comments as possible. He explained that the meeting was a Category 3 meeting so that the NRC can understand the public's concerns and make sure that they were heard and considered. He asked that people use the microphones when speaking so that the information can be included in the meeting recording. He reminded attendees that classified, Safeguards, and sensitive security information were not to be discussed in the open meeting. He explained that meeting attendees, or those on the phone, can mail or e-mail additional comments to the NRC by close of business on May 7, 2014.

Dr. Way went over the meeting agenda and began his briefing. The briefing provided an overview of the SRM, a background on the NRC's Force-on-Force (FOF) programs, and the methodology for the FOF lessons learned review. The meeting presentation can be found at, (<http://meetings.nrc.gov/pmns/mtg?do=details&Code=20140709>) (ML14122A067 - Public Meeting to Gather input Concerning the Questions Posed by the Commission in Staff Requirements Memorandum (SRM) COMGEA/COMWCO-14-0001 – Slides).

Dr. Way explained that the Commission directed the staff to conduct a lessons learned review of the FOF program to evaluate the program's objectives and to make sure the program is effective. Background: The first iteration of the FOF program was the regulatory effectiveness review (1982-1991), which looked at vital areas, identification of safety/safeguards Interface Issues, and assessed the licensee's contingency response capabilities of licensees and generic issues. The focus of the regulatory effectiveness review program was the effectiveness of NRC's regulations. The regulatory effectiveness review program was sunset and replaced by the Operational Security Response Evaluations (OSRE) (1991-2000). In 1991, the NRC first shared a design basis threat (DBT) with power reactor licensees in order to facilitate the development of licensee protective strategies. These strategies were assessed through the OSRE program. After 9/11, the security response evaluations were suspended to allow licensees and the NRC to respond to the increased threat environment. The NRC issued orders to licensees for interim compensatory measures in response to 9/11. The NRC conducted a series of expanded tabletop drills to look at licensee, local, State and Federal response activities. Based on the information from the expanded tabletop drills, the staff recommended to the Commission that the NRC conduct expanded pilot FOF exercises. The experience from the expanded tabletops and FOF drills were reported back to the Commission and the NRC used these insights to develop the FOF program. Based on the expanded threat post-9/11, the NRC implemented a transitional program to develop the FOF program. These activities lead to the development of the current FOF program, which has been in place since 2004.

The objectives for the FOF program are established by the Atomic Energy Act of 1954, as amended by the Energy Policy Act of 2005, which directs the NRC to conduct FOF exercises to evaluate the licensees' protective strategies.

Dr. Way discussed a chart from the International Atomic Energy Agency that illustrates the concept of design basis threat and what a private security force is expected to protect against. He then explained what the DBT is, what it is used for and what it is not. The DBT is a capabilities or boundary condition document. It is used to aid licensees in developing protective strategies. There is a large body of knowledge on how to protect fixed facilities and on the tactics used to attack fixed facilities. The NRC looks to licensees to develop protective strategies based on that body of knowledge. The DBT is not tactics guide,

The FOF program is part of the security cornerstone of the reactor oversight process. The inspection manual chapter objectives are; (a) to verify that the licensee has the capability to protect its target sets against the DBT and (b) to demonstrate that the protective strategy works through drills and exercises. The safeguard objective of the DBT for power reactor facilities is to protect against radiological sabotage, for fuel facilities this includes theft and diversion of nuclear material.

Dr. Way explained the methodology for the staff's lessons learned review. He pointed out that the NRC performs lessons learned on a continuing basis and that part of the goal of the continual reviews is to make sure that the inspections are both safe and effective. In order to respond to the Commission's questions, the group of subject matter experts, as phase one of the review, performed data collection and analysis, literature review, conducted benchmarking of the program against federal other agencies, reviewed best practices, and solicited stakeholder input. The second phase of the process will be to analyze the phase one data,

develop options and recommendations, and submit a response to the Commission SRM. That concluded the briefing.

The meeting facilitator asked if there were any comments or insights on Question 1 of the SRM. There were no comments from meeting attendees for Question 1. There were no comments from individuals on the phone.

The meeting facilitator asked if there were any comments or insights on Question 2 of the SRM. There were no comments from meeting attendees for Question 2. The question was directed to the individuals on the phone. Dr. Edmund Lyman, from the Union of Concerned Scientists, explained that it is difficult to make a comment because the process is not clear. He asked if we are asking for comments on the current practice. Dr. Way clarified that the NRC is looking for comments on that practice. Dr. Lyman stated that he agrees with that practice and that it should be continued. He requested examples of what is meant by unintended consequences. He stated that the question suggests that the information that is being provided is being compromised and wants to have the question clarified. Dr. Way stated that the Energy Policy Act is silent in regards to notification. He stated that notification that a licensee failed to protect a target set does not mean that the licensee does not have the capability to protect the site. He stated that the notification may be misinterpreted. Dr. Lyman suggested that these misconceptions can be corrected without curtailing the notification process. Dr. Lyman suggested that the public needs transparency on the security program and that the public needs confidence that elected officials are being notified in a timely manner and that the public needs to be assured that there is a free flow of information between officials that need this information and he would not support discontinuing this notification.

The meeting facilitator asked if there were any comments or insights for Question 3 of the SRM. Mr. Dick Rosano, from Talisman International, recommended that the staff issue (sooner rather than later) a specific position with regards to the FOF program as it relates to plants undergoing decommissioning. The question was directed to the individuals on the phone. Dr. Lyman (on the phone) comments that the question appears to have some subtext. He commented that FOF exercises should ensure that licensees are capable of responding to any threat up to the DBT and the adversary characteristics. He stated that any new techniques or tactics that are consistent with the DBT and adversary characteristics should be within the licensees' capability to protect and that these techniques are thus valid and should be employed. He commented that FOF is a performance based rule that has been applied in a performance based manner, and should be continued that way.

The meeting facilitator asked if there were any comments or insights for Question 4 of the SRM. There were no comments from meeting attendees for Question 4. The question was directed to the individuals on the phone. Dr. Lyman commented that the public is not capable of answering the first part of the question and it is impossible to answer in an open forum. In regards to a cost/benefit analysis, he commented that there is neither reason nor mechanism to apply cost/benefit to adversary characteristics. He suggested that there is no credible way (quantitative means) to evaluate the cost/benefit of tactics. He commented that changes to the composite adversary force (CAF) tactics and techniques should be determined by the NRC as long as they are within the DBT should maintained. He commented that the regulated community should not be able to comment on CAF tactics and techniques.

The meeting facilitator asked if there were any comments or insights on Question 5 of the SRM. There were no comments from meeting attendees for Question 5. The question was directed to the individuals on the phone. Dr. Lyman stated that the public cannot comment on this question, because he does not know what the mechanism is for providing knowledge to the CAF. He commented that information should be provided to the CAF consistent with the DBT and that an insider should be able to provide the CAF with any information that a site security manager would have access to and that anything short of that is not consistent with the regulation.

The meeting facilitator asked if there were any comments or insights on Question 6 of the SRM. There were no comments from meeting attendees for Question 6. The question was directed to the individuals on the phone. There were no comments from individuals on the phone.

The meeting facilitator asks if there are any comments or insights for Question 7 of the SRM. Mr. Rosano commented that there are number of documents on this topic and that a Nuclear Energy Institute (NEI) document suggests that technical parameters apply to tunnels. He recommended that the staff consider previous studies that have been conducted and technical information that has been gathered and that the staff then reconsider this information with regards to two dimensional and three dimensional openings. The question was directed to the individuals on the phone. There are no comments from individuals on the phone.

The meeting facilitator asked if there were any comments or insights for Question 8 of the SRM. There were no comments from meeting attendees on Question 8. The question was directed to the individuals on the phone. Dr. Lyman commented that the public does not know how deficiencies are being ranked, but the old significance determination process (SDP) that established margin criteria, provided a good process for ranking the significance of deficiencies. He commented that this information is important to establish how robust licensee programs are at addressing capabilities beyond the DBT. He commented that the current SDP is not as good at that ranking. He does not approve of the new process.

Mr. Smith asked if there were any comments or insights for Question 9 of the SRM. There were no comments from meeting attendees for Question 9. The question is directed to the individuals on the phone. Dr. Lyman commented that he thinks that, as part of NRC's posture, the policy of requiring compensatory measures before the inspectors leave the site is essential. He commented that this is essential to demonstrate to the public that vulnerabilities are immediately corrected and the site is not at risk. He commented that not only would it look bad but that the NRC's Protecting Our Nation document would need to be corrected to comment that only some deficiencies are immediately corrected. He commented that a change to this policy would be disaster.

The facilitator opened the meeting to any additional comments within the scope of the lessons learned and the questions that have been discussed. There were no comments from attendees at the meeting and none from individuals participating by phone.

The meeting facilitator provided the mailing address and e-mail address for additional comments and again requested that they be provided by May 7, 2014, in order to be considered in the NRC's response to the Commission.

Mr. Dave Klein from NEI, requested that the closed portion of the meeting be moved up to earlier in the day. Dr. Way indicated that this is not possible because the notice of the time had already been noticed, and it would not be fair to those who only planned to attend the closed meeting.