

March 03, 2017

MEMORANDUM TO: Timothy Mossman, Branch Chief
Materials and Waste Security Branch
Division of Physical and Cyber Security Policy
Office of Nuclear Security and Incident Response

FROM: Angela Wu, Security Specialist */RA/*
Materials and Waste Security Branch
Division of Physical and Cyber Security Policy
Office of Nuclear Security and Incident Response

SUBJECT: SUMMARY OF PUBLIC MEETING ON REVISION 1 OF
REGULATORY GUIDE 5.75, "TRAINING AND QUALIFICATIONS
OF SECURITY PERSONNEL AT NUCLEAR POWER REACTOR
FACILITIES"

On January 25, 2017, the U.S. Nuclear Regulatory Commission (NRC), Office of Nuclear Security and Incident Response (NSIR), Division of Physical and Cyber Security Policy (DPCP) held a Category 2 public meeting for Draft Regulatory Guide (DG) 5043, draft Revision 1 to Regulatory Guide (RG) 5.75, "Training and Qualifications of Security Personnel at Nuclear Power Reactor Facilities," as requested by the Nuclear Energy Institute (NEI).

On December 31, 2015, the NRC staff published DG-5043 for stakeholder comment (Agencywide Documents Access and Management System (ADAMS) Accession No. ML14297A272). In letter dated February 26, 2016, NEI provided comments to the NRC staff on DG-5043, citing five specific issues of particular concern for the industry (ADAMS Accession No. ML16063A030).

To address NEI's concerns, the NRC staff focused its discussion on the following five topics:

- Mock Adversary Force (MAF) Training & Qualifications
- Medical Qualifications
- Use of Deadly Force
- Systematic Approach to Training (SAT) Process
- Force-on-Force Exercise Critiques

For the public meeting notice, reference ADAMS Accession No. ML17023A303. For the PowerPoint Slides for the meeting, reference ADAMS Accession No. ML17023A302.

Enclosures:

1. Discussion of NEI's Five Major Comments & Action Items
2. Meeting Agenda
3. Meeting Participants

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MEMO TO TIMOTHY MOSSMAN RE: SUMMARY OF PUBLIC MEETING ON REVISION 1 OF REGULATORY GUIDE 5.75, "TRAINING AND QUALIFICATIONS OF SECURITY PERSONNEL AT NUCLEAR POWER REACTOR FACILITIES"

DATE:

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ENCLOSURE #1: DISCUSSION OF NEI'S FIVE MAJOR COMMENTS & ACTION ITEMS

Mock Adversary Force (MAF) Training and Qualifications:

- **Industry Concern:** There is no regulatory basis to support the training and qualification requirements for a mock adversary force (MAF). In addition, NEI questions the requirement for licensees to hold combined enhanced weapons authority for MAF purposes.
- **NRC Staff Position:** Inspection and operating experience have shown wide variation in how licensees train their personnel to perform MAF duties. The regulatory basis for MAF training and qualifications is in 10 CFR Part 73, Appendix B, Section VI, Paragraph A.5 and 10 CFR Part 73.1(a)(1)(A).

10 CFR Part 73, Appendix B, Section VI, Paragraph A.5 states that, "the licensee shall ensure that the training and qualification program simulates, as closely as practicable, the specific conditions under which the individual shall be required to performed assigned duties and responsibilities." The conditions under which an individual shall be required to perform in a MAF are driven by a design basis threat (DBT), and by 10 CFR 73.1(a)(1)(A), such individuals are "well-trained (including military training and skills) and dedicated individuals, willing to kill or be killed, with sufficient knowledge to identify specific equipment or locations necessary for a successful attack."

The NRC staff does not intend for licensees to purchase enhanced weapons and has added clarifying language in Section 5.16.1(u) to address the potential for licensees to incorrectly interpret the guidance. The language in DG-5043, Section 5.16.1(u) has been changed to read: "Demonstrate firearms proficiency as stipulated in Appendix B of Part 73 and possess a thorough understanding of the characteristics and capabilities of design basis threat weapons, ammunition and munitions and apply such characteristics and capacities during drills and exercises. Licensees are not expected to purchase weapons or ammunition beyond what is currently listed in Section 9 of their physical security plan."

- **Discussion:** Christopher Newton (Duke Energy) stated that the requirement for licensees to hold combined enhanced weapons authority for MAF caused quite a bit of concern among the industry and appreciated that the NRC staff was receptive to the comment. Dr. Edwin Lyman (Union of Concerned Scientists) supported the need for specific guidance for drills and exercises. According to Dr. Lyman, training for MAF is critical. The industry had no further comments on the training and qualifications for an MAF.

Medical Qualifications:

- **Industry Concern:** For the performance of physicals, RG language is more stringent than 10 CFR Part 73, Appendix B language. The rule language states, "licensed health professional," while the RG language cites a "licensed physician or physician's assistant."

- **NRC Staff Position:** The language in the original publication of RG 5.75 from July 2009 mirrored that of 10 CFR Part 73, Appendix B: “licensed health professional” (ADAMS Accession No. ML091690037). However, in the revision of RG 5.75, the NRC staff intended to provide a couple of examples of a “licensed health professional,” as learned through operating experience and inspections. To provide additional clarity, the NRC staff has changed the RG language to read: “licensed health professional (e.g., licensed physician, licensed physician’s assistant, licensed nurse practitioner, or licensed nurse).”
- **Discussion:** The industry had no further comments regarding the medical qualifications necessary for the performance of physicals.

Use of Deadly Force:

- **Industry Concern:** The guidance on the use of deadly force in DG-5043, Section 8.13 is too generic and vague. Instead, licensees should be left to determine how best to meet the training requirements for the use of deadly force.
- **NRC Staff Position:** On January 19, 1989, the NRC issued Information Notice (IN) 89-05, “Use of Deadly Force by Guards Protecting Nuclear Power Reactors Against Radiological Sabotage” to present NRC responses to questions raised during safeguards inspections and discussions with licensees concerning use of deadly force by guards protecting nuclear power reactors against radiological sabotage (ADAMS Accession No. ML031180489). The revision of the RG incorporates the content described in IN 89-05 regarding situations and circumstances that could justify the use of deadly force and acts as a more “durable” guidance. Licensees and applicants must determine the means to ensure that the regulatory requirements are being met.

The NRC staff agrees that licensees should be left to determine how best to meet the training requirements for the use of deadly force in accordance to state law and site-specific requirements.

No change has been made to the RG as a result of this comment.

- **Discussion:** Christopher Newton (Duke Energy) expressed concern over standardizing verbiage for the use of deadly force. Because there are many interpretations to the RG, voiced Mr. Newton, the content on the use of deadly force should be removed from the RG for licensees to make the final call on a case-by-case basis and involve local law enforcement at their discretion.

Systematic Approach to Training (SAT) Process:

- **Industry Concern:** The discussion on the Systematic Approach to Training (SAT) Process in Section B, “Discussion,” is flawed and should be removed. It contains a withdrawn Institute of Nuclear Power Operators (INPO) document that is no longer available to the industry. Additionally, NEI 13-07, “Guidance on a Systematic Approach to Training for Nuclear Security,” is available to the licensees for use.
- **NRC Staff Position:** Section B of the RG is “Discussion,” while Section C, “Staff Regulatory Guidance,” contains one way to meet the regulations. In 10 CFR 55.4, “systems approach to training” is defined. The requirements for the training and qualification of nuclear power plant personnel is described in 10 CFR 50.120(b)(2),

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which states that, “the training program must be derived from a systems approach to training as defined in 10 CFR 55.4.” Section B offers a parallel to 10 CFR 55.4 for the purpose of describing the efficacy and applicability of the systematic approach to training as it applies to security personnel and acts as one acceptable means to manage security-related training programs.

Additionally, while INPO-AP-921, “Principles of Training System Development” has been withdrawn by INPO and may no longer be available for further distribution, the document was used as a resource in the development of the initial application of the SAT Process as described in the original RG and still has value.

NEI 13-07, “Guidance on a Systematic Approach to Training for Nuclear Security” has not been endorsed by the NRC. Furthermore, the NRC provides guidance for licensees and applicants without constraint from industry documents.

- **Discussion:** Douglas Batche (Exelon) requested clarification on the citation of 10 CFR 50.120 as an applicable regulation because it can be interpreted that the NRC staff is asking for the security training program to be accredited.

According to Christopher Newton (Duke Energy), in 2012, the industry recognized that there were gaps in the training, which resulted in the publication of NEI 13-07. As NEI 13-07 is not currently endorsed by the NRC, a question was raised as to whether NEI - 13-07 can be sent to the NRC for review. The staff responded that the NRC is always open to reviewing industry guidance under their formal technical review process.

The NRC staff clarified that for the NRC to endorse a guidance document, the NRC staff would have to conduct a review to determine that it was one acceptable way to meet NRC regulations. Only then could the endorsed guidance be referenced in a RG.

While the SAT process is one acceptable means to manage a security-related training program, the NRC staff reminded the industry that if the SAT process is part of a licensee’s security plan, it is required as a part of the licensing basis.

Additionally, the NRC staff discussed that the NRC endorsed NEI 03-09, “Security Officer Training Program,” in April 2004, and licensees made the guidance a condition of their license by committing to NEI 03-09 in their security plans (ADAMS Accession No. ML090970329). This commitment to NEI 03-09 was retained in NEI 03-12, “Template for the Security Plan, Training and Qualification Plan, Safeguards Contingency Plan, and Independent Spent Fuel Storage Installation Security Program,” (ADAMS Accession No. ML11301A066), until Revision 6, whereupon the commitment to NEI 03-09 was replaced with a commitment to RG 5.75.

Industry was asked whether they would be willing to reinstate their previous commitment to NEI 03-09. Mr. Newton indicated that the industry no longer follows NEI 03-09 and has not since RG 5.75 was published. NEI 03-09 has been withdrawn.

Pat Asendorf (Tennessee Valley Authority) pointed out that there was conflicting diction on Slides 7 and 8 of the meeting slides. On Slide 7, it states that “Section C, ‘Staff Regulatory Guidance,’ contains staff’s guidance on how to meet regulations,” while Slide 8 states that the, “RG offers one acceptable way to conduct force-on-force exercise

critiques.” Mr. Asendorf voiced that the wording in Slide 7 gives off the appearance that the guidance provided in the RG is the only way to meet the regulations. The NRC staff acknowledged the wording error on Slide 7, and verified that it should read, “Section C, ‘Staff Regulatory Guidance,’ contains one way on how to meet regulations.”

Eric Brooks (NEI) asked the NRC staff whether it could add one to two sentences to the RG to clarify the need for accreditation of a security training program for the industry. To that, the NRC staff responded that it would consider adding a statement in the RG to clarify that Section B in the RG is discussion, while Section C of the RG is one acceptable way to meet regulation.

Force-on-Force Exercise Critiques:

- **Industry Concern:** NEI 03-11, “Guidance for the Preparation and Conduct of Force-on-Force Exercises,” includes updated guidance for the conduct of force-on-force exercise critiques. The guidance on force-on-force exercise critiques described in DG-5043, Sections 5.19 and 5.20 differs from what is described in NEI 03-11. The industry recommends Sections 5.19 and 5.20 be removed to avoid confusion among licensees as to which guidance to follow.
- **NRC Staff Position:** Force-on-force exercises critiques are required by 10 CFR 73, Appendix B, Section VI, Paragraph C.3.(g) and Paragraph C.3.(i). NRC staff has issued violations to licensees for conducting exercise critiques incorrectly. DG-5043, Sections 5.19 and 5.20 aim to clarify expectations for exercise critiques by providing one acceptable way to conduct force-on-force exercise critiques.

NEI 03-11 has not been endorsed by the NRC as an acceptable way to conduct force-on-force exercise critiques. Furthermore, the NRC provides guidance for licensees without constraint from industry documents.

- **Discussion:** The NRC staff reiterated that a RG is one acceptable way of meeting the regulation and does not necessitate new requirements. NRC endorsement of industry guidance involves a review to ensure acceptability as a way to meet the rule. Licensees are free to consider any guidance; though, licensees are required to submit their methods to the NRC for approval as their way of meeting the regulation. Thus, just because there is an existing industry guidance on a subject, it does not preclude the NRC from developing its own guidance. Endorsed guidance would be referenced as part of the RG.

To confirm understanding, Sue Perkins-Grew (NEI) repeated back that the NEI 03-11 cannot be included in RG 5.75 at this time because it has not been endorsed. However, she verified, that licensees can follow NEI 03-11 if it meets requirements, as determined site-by-site through submittal and approval from the NRC. The NRC staff confirmed this statement to be correct.

Eric Brooks (NEI) asked whether DG-5043, Sections 5.19 and 5.20 were “slanted” towards Cycles 1, 2, and 3.

When the industry doubted the need for exercise critiques, the NRC restated that force-on-force exercise critiques are required per 10 CFR 73, Appendix B, Section VI, Paragraph C.3.(g) and Paragraph C.3.(i).

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Dr. Edwin Lyman (Union of Concerned Scientists) believed it was quite obvious that there's a need to evaluate force-on-force exercises. Additionally, Dr. Lyman mentioned that it does not make any sense for the NRC to remove its guidance due to the existence of unapproved industry guidance.

Closing Remarks:

Christopher Newton (Duke Energy) inquired whether there would be any additional opportunities to comment on DG-5043 before final publication. The NRC staff does not plan on resending DG-5043 out for public comment; however, any member of the public is free to send a letter to the NRC at any time.

Eric Brooks (NEI) asked whether the NRC staff was ready to share the disposition of previously submitted comments. The NRC staff explained that as part of its internal concurrence process, the NRC staff must provide quality disposition to the comments received from stakeholders, which will be available at the time of RG publication.

Finally, Mr. Newton asked for publication and compliance date for Revision 1 of RG 5.75. To that, the NRC staff estimated the revision to be issued within 3 months, with no compliance date. RGs acts as staff guidance of one acceptable way to meet regulation, and does not contain requirements with which licensees must comply.

Action Items:

At the close of the meeting, Dr. Edwin Lyman requested for a status update of the controller guidance working group's discussion regarding the consistency of applying DBT attributes, including tactics, techniques, and procedures (TTPs) by licensees during exercises and drills.

In response to the question, the NRC staff indicated that the appropriate subject matter experts were not in the room to answer the question and would have to get back to Dr. Lyman after the meeting.

Following the meeting, the staff evaluated the question and determined that the output from the controller guidance working group regarding the consistency of applying DBT attributes, including TTPs by licensees during exercises and drills was to be added to NEI 05-05, "Controller Responsibilities Guidelines." The staff is reviewing a comprehensive re-write of the document by NEI, which is focused on how to simulate TTPs in exercise space.

ENCLOSURE #2: MEETING AGENDA

**Public Meeting to Discuss Draft Revision 1 to RG 5.75,
“Training and Qualifications of Security Personnel at Nuclear Power Reactor Facilities”**

Wednesday, January 25, 2017
1:00 PM – 3:00 PM
OWFN – 1st Floor Conference Room

TIME	TOPIC	LEAD
1:00 PM – 2:15 PM	Introductions and Opening Remarks	NRC
1:15 PM – 2:30 PM	Discussion: <ul style="list-style-type: none">• Training and Qualifications of Mock Adversary Force• Acceptable Licensed Health Professional• Use of Deadly Force• Systematic Approach to Training (SAT) Process• Force-on-Force Exercise Critiques	NRC/ Stakeholders
2:30 PM – 3:00 PM	Wrap Up	All
3:00 PM	Adjourn	NRC

ENCLOSURE #3: MEETING PARTICIPANTS

<u>NRC</u>	<u>NEI</u>	<u>Industry</u>
James Vaughn	Eric Brooks	Thomas Eck, Talen Energy
Wesley Held	Sue Perkins-Grew	Christopher Newton, Duke Energy
Lisa-Anne Culp		Douglas Batche, Exelon
Kris Jamgochian		Richard Gerner, Exelon
Angela Wu		Edward Wilson, Entergy*
Tim Mossman		Gary Clark, CB&I Areva MOX Services, LLC*
Doug Huyck		Bob Weatherby, CB&I Areva MOX Services, LLC*
Gary Purdy		Drew Nelson, CB&I Areva MOX Services, LLC*
Cliff Roundtree		Lee Gulledge, CB&I Areva MOX Services, LLC*
Jim Andersen		Lee Cochran, FPL/NEE*
Norman St. Amour		Matt Dorn, FPL/NEE*
Russell Felts		Jeff Evanisko, FPL/NEE*
Duane White		Chris Hunter, FPL/NEE*
Mike Burrell		Alan Cooke, FPL/NEE*
Stephen Burton*		Michael Kuether, FPL/NEE*
		John Meissner, FPL/NEE*
		Chuck Workman, FPL/NEE*
		Elliot Gonzalez, FPL/NEE*
		Drew Sorge, FPL/NEE*
		Kathy Mangrum, FPL/NEE*
		John Griffin, FPL/NEE*
		Chuck Sengenberger, FPL/NEE*
		A.Dale Miller, Xcel Energy*
		Robin Cook, Entergy*
		Chris Kelley, Exelon*
		Louis Huerta, STP Nuclear Operating Co.*
		Gregory S. Anderson, DTE Electric Company*
		Mark O'Connor, DTE Electric Company*
		Traci Mullins, DTE Electric Company*
		Steven Dolley, Platts Nuclear*
		Edwin Lyman, Union of Concerned Scientists*
		Pat Asendorf, Tennessee Valley Authority*
		David Klein, Access Profiles, Inc*

Legend:

*: Participated by phone