

**POLICY ISSUE
INFORMATION**

SECY-01-0023

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FOR: The Commissioners
FROM: William D. Travers
Executive Director for Operations
SUBJECT: PUBLIC COMMENTS ON SECY-00-0063, "STAFF RE-EVALUATION OF POWER REACTOR PHYSICAL PROTECTION REGULATIONS AND POSITION ON A DEFINITION OF RADIOLOGICAL SABOTAGE," AND STAFF REVIEW OF INDUSTRY-RECOMMENDED SAFEGUARDS PERFORMANCE ASSESSMENT PROGRAM (WITS ITEM 199800188)

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PURPOSE:

To inform the Commission of (1) the staff review of the public comments received relating to the publication of [SECY-00-0063](#), "Staff Re-Evaluation of Power Reactor Physical Protection Regulations and Position on a Definition of Radiological Sabotage (March 9, 2000)," including consideration of the comments in the related rulemaking activities, (2) the status of the staff's review of the industry-recommended Safeguards Performance Assessment (SPA) program and interactions with stakeholders, and (3) the status of the Operational Safeguards Response Evaluation (OSRE) program improvements. The Staff Requirements Memorandum (SRM) dated November 22, 1999 stated that "the staff should keep the Commission informed of the details of the pilot program, which could be submitted in an information paper." In addition, the Commission asked for "periodic updates." The [SRM](#), dated April 12, 2000, again stated that the staff should keep the Commission informed.

BACKGROUND:

In 1982, the staff began conducting on-site evaluations of power reactor licensee capabilities to respond to safeguards contingency events through the Regulatory Effectiveness Review (RER) program. In 1991, lessons learned from the RER program were folded into the OSRE program, the follow-on program to conduct these reviews. The OSRE program completed its first full cycle in May 2000. Prior to completion of the first cycle, the Office of Nuclear Reactor Regulation (NRR) formed the SPA Task Force in the fall of 1998 to explore more efficient and effective means of evaluating licensees' development and implementation of protective strategy capabilities.

The SPA Task Force reported its recommendations to the Commission in SECY-99-024, "Recommendations of the Safeguards Performance Assessment Task Force," dated January 22, 1999. The Commission approved the recommendations forwarded in SECY-99-024 by an SRM dated June 29, 1999. This SRM directed the staff to develop a plan to modify the regulations to require power reactor licensees to identify target sets of equipment that must be protected to maintain safe operation or for safe shutdown of the plant, develop strategies to protect against an assault by the design basis threat (DBT) of radiological sabotage, and exercise these strategies periodically. A series of public meetings were conducted to receive feedback from stakeholders, including representatives from the Nuclear Energy Institute (NEI) and the Nuclear Control Institute (NCI), on the rulemaking activity.

On October 5, 1999, the staff forwarded SECY-99-241, "Rulemaking Plan, Physical Security Requirements for Exercising Power Reactor Licensees' Capability to Respond to Safeguards Contingency Events," requesting Commission approval of a rulemaking plan to begin a comprehensive review of [10 CFR 73.55](#), including exercise requirements. On November 22, 1999, the Commission issued an SRM approving the staff's rulemaking plan, directing the staff to begin a comprehensive review of 10 CFR 73.55 and associated power reactor physical protection regulations and to provide position papers on (a) the attributes of the DBT and (b) the definition of radiological sabotage.

On March 9, 2000, the staff responded to the second part of the November 22, 1999, SRM in SECY-00-0063, "Staff Re-Evaluation of Power Reactor Physical Protection Regulations and Position on a Definition of Radiological Sabotage," and recommended providing performance criteria as the basis for physical protection regulations instead of basing the new regulations on a redefinition of radiological sabotage. In an SRM dated April 12, 2000, the Commission directed the staff to continue its plans to implement this approach in the new security regulations; to test the concepts described in SECY-00-0063 in the industry Self-Assessment Program, as appropriate; and to publish SECY-00-0063 in the *Federal Register* for public comment. The first part of the November 22, 1999, SRM regarding the attributes of the DBT is being addressed separately.

DISCUSSION:

Comments on SECY-00-0063

In accordance with the SRM dated April 12, 2000, the staff published SECY-00-0063 in the *Federal Register* on June 9, 2000 (65 FR 36649), seeking public comment. The comment period was scheduled to end August 23, 2000. However, consistent with the *Federal Register* notice, the staff recognized the benefits gained from a comprehensive consideration of comments, including those received shortly after the scheduled closing, and exercised its prerogative to extend the comment period. The staff accepted comments through September 8, 2000.

Nineteen individuals and organizations responded to the publication of SECY-00-0063 in the *Federal Register*. Including NEI, there were thirteen respondents who endorsed the comments in the letter from Mr. R. E. Beedle to the Secretary, NRC, dated August 23, 2000. The remaining six respondents provided independent comments without reference to the NEI comments. The staff reviewed all of the comments and also considered the comments in the related rulemaking activities. The comments and the staff's responses are provided in the Attachment.

The staff's publication of SECY-00-0063 in the *Federal Register* particularly solicited comments on criteria for designing and evaluating licensee security programs, including force-on-force exercises. For a variety of reasons, all 19 respondents, including both industry and non-industry stakeholders, stated that it is inappropriate to base nuclear power plant security performance criteria on the protection of critical safety functions (CSFs). There were comments on the lack of clarity of the CSF concept, the potential for over-conservatism provided through the use of CSFs, the concern that protection of CSFs could distract licensees from more fundamental security goals, the concern that an analysis based on CSFs may lead to inefficient use of NRC and licensee resources, and that prevention of "significant core damage" or "core damage" was a better alternative to the protection of CSFs. In responding to comments, the staff considered stakeholder concerns about the concept of protection of CSFs and determined that although the concept had merit, it would be difficult to implement. As a result, the staff reviewed the merits of a "core damage" objective and weighed its concerns about (1) the distinction between "significant core damage" and "core damage," (2) the ability of licensees to prevent further core damage once core damage has occurred, and (3) the licensees' safeguards programs vulnerabilities that could permit core damage.

The staff currently believes that the performance-based criteria for security regulations should be based on protection against core damage at operating plants and protection of the spent fuel rather than protection of CSFs. The staff believes that the current definition of radiological sabotage provides the proper scope to require an adequate level of protection and the ability to encompass potential changes in safeguards requirements within the proposed rule. Thus, a new definition of radiological sabotage at power reactors is not considered necessary.

Safeguards Performance Assessment (SPA) Program

Since the SPA program is intended to pilot new concepts for self-assessment of performance by licensees with an independent evaluation by NRC, issues pertaining to the SPA program are integral to the exercise portion of the rulemaking effort. In accordance with Commission guidance to pursue this concept, the staff has held several public meetings to discuss the industry-recommended SPA program as a pilot program to test new methods for evaluating licensees' contingency response capabilities.

On October 18, 2000, the industry provided Draft 6 of the SPA program (NEI 99-07), and a public meeting was held on October 19, 2000, to discuss the components of the program. On November 3, 2000, the staff sent a letter to Mr. J. Davis, Nuclear Energy Institute, summarizing the staff's comments. Principal comments relate to the staff's belief that the program is now ready for piloting, given that a few specific issues are resolved prior to commencement of the pilot program. In addition, the staff has made its intentions regarding the NRC procedure for inspection of the SPA program available to the public in ADAMS (ML003766675). NEI recently provided the staff with its final version of NEI 99-07 (November 2000), which the staff has reviewed and discussed at a public meeting with stakeholders on December 13, 2000. The stakeholders also discussed the scheduling of pilot SPA evaluations, the NRC's role in SPA evaluations, and the impact of the SPA pilots on OSREs, including intended OSRE scheduling considerations. The staff will be providing further information on the SPA in a separate Commission Paper regarding the approval for initiation of a pilot program and related implementation details.

Operational Safeguards Response Evaluation (OSRE) Program

The staff has undertaken several initiatives to clarify and improve the understanding and stability of the OSRE program. These initiatives involved the conduct of public meetings with stakeholders on OSRE issues, and the development and issuance of guidance documents providing clarification of the OSRE adversary characteristics, [COMSECY-00-0036](#), "Safeguards Performance Assessment Issues Associated with the Revised Oversight Process," dated October 18, 2000, and a memorandum, "Conduct, Agenda, and Rules of Engagement for Operational Safeguards Response Evaluations," dated November 17, 2000 (available to the public in ADAMS (ML003770560)). The staff continues to identify and address lessons learned from the conduct of the OSRE program and is using this information to further improve the OSRE program and enhance the rulemaking effort.

CONCLUSION:

This paper is informational and describes ongoing staff deliberations with agency stakeholders. The performance criteria for safeguards regulations are part of the ongoing rulemaking activity and will be presented to the Commission in the proposed

rule for comment and approval. The staff expects to deliver the proposed rule by May 2001.

COORDINATION:

This paper has been coordinated with the Office of Nuclear Material Safety and Safeguards. The Office of the General Counsel has reviewed this paper and has no legal objection to its content. The office of the Chief Financial Officer has reviewed this paper for resource implications and has no objections.

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Attachment: [As stated](#)

ATTACHMENT

STAFF RESPONSES TO PUBLIC COMMENTS ON SECY-00-0063 (March 9, 2000)

Since November 1999, the NRC staff has conducted public meetings to provide the industry and public stakeholders an opportunity to comment on the re-evaluation of power reactor physical protection regulations. The staff published [SECY-00-0063](#), "Staff Re-Evaluation of Power Reactor Physical Protection Regulations and Position on a Definition of Radiological Sabotage" (March 9, 2000), in the *Federal Register* on June 9, 2000 (65 FR 36649) to solicit additional public comments on the rulemaking process.

Nineteen individuals and organizations responded to the publication of SECY-00-0063 in the *Federal Register*. Twelve respondents endorsed the comments from the Nuclear Energy Institute (NEI) as described in the letter from Ralph E. Beedle to the Secretary, NRC, dated August 23, 2000. The staff reviewed all of the comments and also considered the comments in the related rulemaking activities. The comments and the staff's responses are summarized below.

1. Comment: Seven respondents commented that the current rulemaking process does not use credible threats as a basis for a risk analysis/management process. Items of concern included inconsistency and lack of clarity in defining the weapons and capabilities of the adversary, perceived escalation of the adversary capabilities used during OSREs, and perceived inappropriate adversary capabilities which approximate those of an enemy of the United States.

Response: The staff recognizes the need for clarification of the subject adversary characteristics and is developing a proposal for the process used to clarify adversary characteristics associated with the design basis threat (DBT). This process will incorporate information from other Federal agencies involved in threat assessment to ensure credibility and consistency. In response to the need for near-term clarification of the adversary characteristics for use in upcoming Operational Safeguards Response Evaluation (OSRE) exercises, the staff provided guidance to cleared industry personnel with a need to know the information for the design and testing of nuclear power reactor security and contingency response plans.
2. Comment: Three respondents requested that NRC consider the deterrent effect of existing security regulations. They called for a greater focus on maintaining plants as hardened targets with credit for defense-in-depth and reactor design features and not on requiring deployment of contingency measures to address hypothetical terrorist threats.

Response: The staff acknowledges that the existing regulations provide some security by the deterrent effect of a visibly hardened facility, and the staff is considering this in the rulemaking effort. Even though the primary intent of the re-evaluation of 10 CFR Part 73.55 is to clarify and enhance the performance basis of the regulations and risk-inform the process, some aspects of the new security regulations may result in licensees determining a need for additional components for protection. Development and implementation of contingency measures may be necessary to provide high assurance of protection against an attack consistent with the NRC's requirements.
3. Comment: One respondent commented on the use of security risk management in place of total risk elimination as being a critical component to creating effective regulations, and that the current revision process does not appear to be based on security risk management concepts.

Response: The staff is incorporating a risk-informed approach in such places as target set development to

permit licensees to more efficiently and more effectively focus resources on the most risk-significant areas. Licensees have always been able to utilize risk management in the design and employment of their security systems and plans, and licensees are encouraged to do so in the future.

4. Comment: All 19 respondents commented that it is inappropriate to use the protection of critical safety functions (CSFs) as the basis for nuclear power plant security performance criteria. Items of concern included the lack of clarity of the CSF concept, the potential for over-conservatism provided through the use of CSFs, the concern that protection of CSFs could distract licensees from more fundamental security goals, the concern that an analysis based on CSFs may lead to inefficient use of NRC and licensee resources, and the concern that prevention of "significant core damage" or "core damage" was a better alternative to the protection of CSFs.

Response: The staff considered stakeholder concerns regarding the concept of protection of CSFs and determined that while the concept had merit, it could be difficult to implement. As a result, the staff reviewed the merits of a "core damage" objective. The staff weighed its concerns regarding (1) the distinction between "significant core damage" and "core damage," (2) the ability of licensees to prevent further core damage once core damage has occurred, and (3) the licensee safeguards program vulnerabilities that permit core damage.

The staff currently believes that the performance-based criteria for security regulations should be based on protection against core damage at operating plants and protection of the spent fuel rather than protection of CSFs. The staff believes that the current definition of radiological sabotage provides the proper scope to require an adequate level of protection and the ability to encompass potential changes in safeguards requirements within the proposed rule. Thus, a new definition of radiological sabotage at power reactors is not considered necessary.

5. Comment: One respondent commented that the staff should first revise NRC Baseline Inspection Procedure IP-71130, "Physical Protection," to fit with the final Safeguards Performance Assessment program.

Response: The staff agrees with the comment and has drafted an inspection procedure to handle the evaluated exercise within the proposed Safeguards Performance Assessment (SPA) program (ADAMS Accession No. ML003766675). Additional inspection program changes are anticipated during the implementation of the pilot program.

6. Comment: One respondent commented that the staff should revise the Physical Protection Significance Determination Process to mesh with the final Safeguards Performance Assessment program.

Response: The staff agrees that the Physical Protection Significance Determination Process (SDP) should be revised, and the staff has initiated efforts to accomplish this. The staff's analysis and recommendations were approved by the Commission per SRM COMSECY-00-36.

7. Comment: Thirteen respondents recommended that the NRC use NEI's layered approach to meet overall performance objectives for physical protection of nuclear power plants. This approach is based on five layers: (1) access authorization program to ensure personnel with unescorted access are trustworthy and reliable, (2) barrier system and material search, (3) detection system, (4) assessment capability, and (5) contingency response.

Response: During public meetings held in 1999 and 2000, staff discussions with stakeholders included NEI's layered approach. The staff agrees with the importance of the programs, systems, and plans associated with each layer and is incorporating elements of each layer in the rulemaking activity.

8. Comment: Two respondents disagreed with sites committing to the SPA program in their site-specific Security Plans.

Response: The staff recognizes the concerns licensees have regarding the placement of a commitment to the SPA program in security plans and is considering the various options that are available if the program is conducted as a voluntary pilot program. The method for final commitment to the SPA is being considered by the staff as a part of the proposed rulemaking.

9. Comment: One respondent commented on the "backfit" concerns associated with additional requirements, noting that these additional requirements were not justified as providing substantial increase in overall protection of public health and safety.

Response: The proposed process of formulation, disposition and approval of Adversary Characteristics associated with the DBT fully considers any backfit implications. In addition, any revisions to 10 CFR 73.55 and associated power reactor security regulations would consider a backfit analysis.

10. Comment: Two respondents commented that the staff should determine how to credit operator actions during a (simulated) attempt at radiological sabotage.
- Response: The staff agrees with the comment and has included guidance on operator actions in a memorandum, "Conduct, Agenda, and Rules of Engagement for Operational Safeguards Response Evaluations," dated November 17, 2000 (ADAMS Accession No. MLO03770560). See the response to comment 11.
11. Comment: Two respondents expressed concern regarding two potential backfit implications associated with OSREs: (1) lack of clear objective standards and (2) an exercise adversary exceeding the DBT.
- Response: On November 17, 2000, the staff issued guidance describing the conduct, agenda, and rules of engagement of OSREs. This guidance clarifies standards, exercise performance issues, and credit for operator actions, among other issues. It is expected that similar guidance will be used for the SPA when it begins. On August 29, 2000, clarification of the OSRE adversary characteristics was published as a sensitive unclassified Safeguards Information attachment to Inspection Procedures 71130.03 and 81110.
12. Comment: One respondent recommended that NRC discontinue OSRE inspections pending issuance of the final rule and limit industry's interim pilot security assessment program to trial elements, mutually agreed to by NRC and industry. The recommendation suggested that the pilot program not be subject to enforcement unless imposed on licensees by regulations.
- Response: The staff was directed by the Commission to maintain a schedule of evaluations of licensee contingency response capabilities. Pending Commission approval of a successor program, the staff has maintained this continuous activity through OSRE inspections. Findings in OSREs will be processed through the Physical Protection Significance Determination Process (SDP), consistent with Commission policy in the Revised Oversight Process. Issues associated with the existing Physical Protection SDP have been evaluated by the staff and are under Commission review.
- As for any enforcement of findings in the pilot program (SPA), the staff is considering the alternatives and will follow the Commission's guidance in this area.
13. Comment: Thirteen respondents commented that target set development methodology should remain flexible, and target sets should not become the key rule objective. The comment noted that the use of CSFs reduced flexibility.
- Response: The use of a fundamental methodology for risk-informed target set development is necessary for a clear understanding of tactical response strategies to be applied when countering a threat against the facility. As for the comment on CSFs, the staff believes target sets should be based on protection against core damage, rather than CSFs, as explained in the response to comment 4, above.
14. Comment: Thirteen respondents commented that industry supports protection of spent fuel as a target to be considered in the protection strategy.
- Response: The staff agrees with the comment and intends to include the protection of spent fuel in the rulemaking activity.
15. Comment: One respondent recommended that NRC sponsor a joint session with the industry before the National Infrastructure Assurance Council to share data affecting the NRC DBT.
- Response: The staff maintains close contacts with the intelligence community and takes advantage of information collected by a variety of Federal law enforcement organizations in maintaining the DBT for radiological sabotage. The staff believes that the National Infrastructure Assurance Council is not the appropriate body for consideration of the threat assessment information that supports the DBT. The National Infrastructure Protection Center, located at the Federal Bureau of Investigation headquarters, and the Department of Energy's Office of Critical Infrastructure Protection are the appropriate organizations for consideration of this threat assessment information. The staff has ongoing liaison with these organizations.
16. Comment: One respondent commented that there is an inconsistency in the implementation of the OSRE program.
- Response: In an effort to stabilize the OSRE program, on September 6, 2000 and October 19, 2000, the staff held public meetings with stakeholders. The meetings included detailed discussions of the conduct of

OSRE inspections. In addition, on November 17, 2000, the staff issued "Conduct, Agenda, and Rules of Engagement for Operational Safeguards Response Evaluations" (ADAMS Accession No. ML003770560). Also, on August 29, 2000, clarification of the OSRE adversary characteristics was published as a sensitive unclassified Safeguards Information attachment to Inspection Procedures 71130.03 and 81110.

17. Comment: One respondent commented that the requirement for periodic drills and exercises is already in place in 10 CFR 73.55(b)(4) and in the introduction to Appendix C of 10 CFR Part 73. Consequently, the respondent stated that addition of a new subsection would be redundant.
- Response: The staff notes that there has been considerable debate among stakeholders as to the regulatory basis for OSREs and other drills and exercises of the licensees' contingency response capabilities. The staff maintains that it has the regulatory authority to conduct OSREs. A specific section of the revised 10 CFR 73.55 dealing with drills and exercises will clarify the position of the agency and provide an opportunity for enhanced regulatory guidance.
18. Comment: One respondent commented that there are high and escalating costs incurred by licensees due to the conduct of OSREs, and that the requirements contemplated in the revised 10 CFR 73.55 could significantly impact the industry and its ratepayers.
- Response: The staff is aware of this issue and notes that impact is considered in all rulemaking efforts.
19. Comment: One respondent commented that applying rapidly evolving adversary characteristics on a site-specific basis is not in the best interest of NRC, industry, and the public.
- Response: The staff conducts a continual review of intelligence information and the impact of that information on the DBT and adversary characteristics. The staff is also documenting its procedure for updating the DBT and adversary characteristics as such changes become necessary and will forward the procedure to the Commission for approval in the near future.
20. Comment: Two respondents commented that the re-evaluation effort needs to address certain current security program features and functions that do not substantially contribute to safety. These items included minimum lighting requirements, vehicle escort requirements, escort requirements for previously searched vehicles, alarm assessments, nitrate detection, and compensation for zones and doors when badged employees are actively servicing the subject equipment (on location).
- Response: The industry provided the staff with a list of current security program features and functions that licensees characterize as not substantially contributing to safety, including the items noted in the above comment. The staff reviewed the listed items to determine the best method to address appropriate changes to those listed licensee requirements and commitments. On October 19, 2000, the staff held a public meeting with stakeholders in which the staff informed industry that no generic exemptions would be granted in regard to the listed items, and that such changes needed to be processed as site-specific requests. Furthermore the staff stated that it is considering these issues in the re-evaluation of 10 CFR 73.55.
21. Comment: One respondent commented that the changes currently being contemplated in the physical security regulations justify greater flexibility in the application of the SDP for certain inspection findings.
- Response: For a discussion of contemplated changes to the SDP, see the response to comment 6, above.
22. Comment: Two respondents commented that the definition of radiological sabotage should not be changed.
- Response: The staff agrees with the comment and is focusing the rulemaking activity on protection of the spent fuel and protection against core damage without instituting a change to the definition of radiological sabotage. For additional details, see response to comment 4 above.
23. Comment: One respondent commented that the new rule should be primarily, but not exclusively, performance-based. The organization responding stated that the new rule should retain a set of deterministic baseline requirements based on practical experience, expert judgement, and common sense.
- Response: The staff agrees with the comment and is developing a rule that is primarily performance-based and does retain a set of deterministic baseline requirements.
24. Comment: Two respondents commented that the current Physical Protection Significance Determination Process (SDP) is too weak to support public confidence in its application. Two recent examples of the use of the SDP were cited. The respondents expressed concern regarding the industry's performance record

for OSRE inspections, and how that relates to public confidence in the industry's self assessment program.

Response: For a discussion of contemplated changes to the SDP, see the response to comment 6, above.

25. Comment: Two respondents commented that simulation of operator actions must be included in evaluation of those actions in a drill or exercise to allow for appropriate crediting of the actions. However, the use of operator actions in security drill or exercise simulation increases evaluation complexity, subjectivity, and uncertainty. Consideration should be given to stipulating that the loss of all the equipment in an entire target set typically exceeds the Design Basis Accident and is likely to be beyond the effective control of operators. Additional consideration should be given to the possibility that operators may not be willing to perform all the necessary actions due to their concern for personal safety or other considerations. Some exercise scenarios should include operators as the targets.

Response: The staff acknowledges the difficulty in the evaluation and crediting of certain operator actions, but due to scenario complexity and resource constraints, the staff does not intend to require detailed simulation of all operator actions. However, the staff is evaluating various options in crediting operator actions, including consideration of training, procedures, and coordination of proposed actions, and will include this credit in the re-evaluation of 10 CFR 73.55, as appropriate. On November 17, 2000, the staff issued guidance describing the conduct, agenda, and rules of engagement of OSREs (ADAMS Accession No. ML003770560). This guidance includes clarification of credit for operator actions.

26. Comment: One respondent commented that if the new rule incorporates reduced NRC oversight, it will result in a reduction in security at nuclear power plants.

Response: The staff acknowledges the importance of independent oversight while noting the value of self-assessment programs. The SPA program is designed to involve more frequent demonstration of the licensee's ability to respond to contingencies and to accommodate more frequent NRC evaluation of the drills and exercises than under the OSRE program.

27. Comment: One respondent commented that only industry has the resources to participate with the NRC as a full partner in the rulemaking process.

Response: The staff recognizes that many stakeholders have limited resources available for participation in this rulemaking process. The staff has attempted to coordinate the scheduling of public meetings with known stakeholders and will continue to encourage and facilitate broad stakeholder participation.

28. Comment: One respondent commented that the NRC needs to evaluate licensee security response to the full capability of adversary characteristics and the knowledgeable insider.

Response: The regulations require licensees to have pre-access screening, employee background investigations, fitness-for-duty testing, and behavioral observation by supervisors to provide protection against potential threats from insiders. In addition, the regulations require a vehicle barrier system to protect against vehicle bombs. These programs and systems are inspected in the course of the NRC's oversight process. The OSRE exercises serve to complement this effort and are designed to assess the licensees' capability to respond to threats from external adversaries. While the primary focus of the OSRE is the external threat, the manner in which an OSRE is initiated at a site replicates the type of valuable information that could be provided by the passive insider. This is accomplished through briefings provided by the licensees which reveal, in advance, the defensive strategies of their response force and by conducting a tour of their protected and vital areas to include the location of vital equipment.

29. Comment: One respondent commented that the fact that the industry provided financial impact information to the NRC regarding implementation of the NRC-prescribed adversary characteristic led to public mistrust of the process.

Response: In developing new regulations, or revising existing regulations, it is standard practice for the staff to consider the impact of the new requirements on the licensees, including matters relating to organization, scheduling, and finances. However, adversary characteristics deemed necessary to assure adequate protection will be established without regard to cost. Regarding any considerations of financial impacts in the development of adversary characteristics, the process of developing those characteristics is under review and ultimately will be approved by the Commission.

30. Comment: One respondent commented that the NRC needs to conduct a comprehensive review of each

licensee's target sets to prevent licensees from omitting certain equipment from target sets and discovering the applicability of that equipment after completion of an exercise scenario.

Response: During the first OSRE cycle (1991 - 2000), the staff reviewed selected target sets for each licensee prior to the conduct of the OSRE at that site. As licensees are scheduled for the second round of OSREs, their target sets are being reviewed again by the staff. More specific guidance for target sets has been developed in the November 17, 2000 memorandum. In addition, this issue is a part of the rulemaking process.

31. Comment: One respondent commented that the NRC should continue the use of skilled contractors in NRC security evaluation efforts.

Response: The NRC currently intends to continue the use of skilled contractors in NRC security evaluation efforts.

32. Comment: One respondent requested that in the rulemaking effort, the NRC consider the significant difference in public participation and involvement between the establishment of a regulatory requirement and implementation through licensee commitment.

Response: Recognizing this difference in public participation and involvement, the staff has been and is conducting numerous public meetings. These public meetings include discussions of the rulemaking and the SPA, including copies of documents from NRC and industry, to maximize stakeholder involvement. Certain details of licensees' commitments made in physical security plans are controlled as sensitive unclassified Safeguards Information (pursuant to Section 147 of the Atomic Energy Act of 1954 and 10 CFR 73.21) and may not be discussed in a public forum. Regarding the implementation of the SPA program, formal approval is a Commission-level decision, and in the interim, the OSRE inspection program has been maintained.

33. Comment: One respondent commented that licensees may have difficulty in providing security escorts to ensure operator safety and permit operator actions when an adversary force is not contained nor neutralized.

Response: As delineated in the November 17, 2000 memo discussed above, the staff believes it is necessary for the licensee to provide security escorts to ensure operator safety and permit operator actions when an adversary force has not been contained or neutralized. The decisions regarding crediting operator actions in response to security contingencies must take into account the personal safety of the operators who are dispatched to different areas of the plant to perform those actions.

34. Comment: One respondent commented on the need to ensure fully integrated security testing.

Response: The drills proposed in the SPA and being considered in the exercise requirement of the draft 10 CFR 73.55 may only test portions of the response capability. However, the staff believes that NRC-evaluated exercises should be fully integrated security tests. The resulting combination of oversight activities should be both efficient and effective.

35. Comment: One respondent commented that licensees should be able to grant unescorted access based solely on drug and alcohol testing. Criminal history searches, background checks, and other items could be done in parallel with employment orientation.

Response: While this comment is beyond the scope of the present solicitation for public comment, it is within the scope of the larger rulemaking effort and will be considered by the staff, as appropriate.

36. Comment: One respondent commented that the NRC should consider a program of escalating response levels based on an increased threat, similar to military Defense Condition and Department of Energy Security Condition programs.

Response: While this comment is beyond the scope of the present solicitation for public comment, it is within the scope of the larger rulemaking effort and will be considered by the staff, as appropriate.