

POLICY ISSUE NOTATION VOTE

July 6, 2007

SECY-07-0114

FOR: The Commissioners

FROM: Luis A. Reyes
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SUBJECT: STAFF RECOMMENDATIONS FOR REVISIONS TO THE ADVERSARY
CHARACTERISTICS SCREENING PROCESS

PURPOSE:

To obtain Commission approval of the staff's recommended approach for improving the Adversary Characteristics Screening Process (ACSP). This paper does not address any new resource implications.

BACKGROUND:

On December 12, 2006, the Nuclear Regulatory Commission (NRC) staff briefed the Commission on the current threat environment. Following the briefing, the Commission directed the staff to reconsider the sequence of actions in the ACSP and provide recommendations.

The NRC staff analyzes terrorist and criminal tactics, techniques and procedures (TTPs) occurring both domestically and worldwide throughout the year to ensure the continued adequacy of the NRC's Design Basis Threats (DBTs). The NRC staff analyzes these TTPs relative to the DBT attributes using the ACSP. The ACSP was utilized in determining the initial adversary characteristics used in the supplemented DBT Order issued on April 29, 2003.

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Since the promulgation of the ACSP and its initial use of drafting the supplemented DBT, staff has used it for the Annual Threat Environment Review (formerly Semiannual). The results of the analysis are provided annually to the Commission unless circumstances dictate earlier.

The ACSP is intended to enhance the transparency, predictability, and consistency of NRC's identification and application for adversary characteristics. The staff uses the screening process to identify adversary characteristics and assign a level of significance to them in order to determine their potential applicability to the regulatory base. The screening process currently comprises four steps – with the Commission being informed of the staffs' efforts throughout the process, and being asked for a vote during the Disposition and Communication Plan (step 4):

Step 1 - The process begins with routine staff review of intelligence reporting consisting of raw and finished reporting coming from the Intelligence and Law Enforcement Communities, open source reporting, and staff participation in a number of interagency groups focused on terrorism related topics. This reporting is evaluated against specific initial criteria (is the attribute absent from the DBT; is the attribute possessed by a terrorist/criminal group; is the attribute possessed outside of a foreign military entity; is the attribute an increased capability; is it man-portable). The staff also performs specific fact-finding to support the understanding of specific adversary characteristics.

Step 2 – If a new potential adversary characteristic passes the first round of screening, then additional weighting factors are considered (what groups possess it; what location is the attribute used; what target type is the attribute used against; what is the social stability of the country where the group is using the attribute; what is the tactical use of the attribute; what is the frequency of use; what is the motive of the group using the attribute; what is the availability of the attribute).

Step 3 – Based on the results of Step 2, staff may interact at the working level with other government agencies within the Intelligence and Law Enforcement Communities. In this informal interaction staff attempts to obtain additional data and insights regarding the characteristic. This interaction will support or refute the staff's working analysis of the characteristic.

Step 4 – Based upon the results of Steps 2 and 3, the staff determines whether the characteristic should be pursued further in a disposition process, which involves preparation of a Disposition and Communication Plan. This plan describes next steps such as engaging stakeholders as appropriate, conducting research and engineering analyses, determining resource impacts and producing a schedule for the process. This Disposition and Communication Plan is then submitted to the Commission for approval before any further action is taken regarding the characteristic.

DISCUSSION:

SRM M061212A – “Subject: Staff Requirements – Briefing on Threat Environment Assessment, 0930 AM, Tuesday, December 12, 2006,” states that the staff should reconsider the sequence of actions. The staff evaluated the viability of simply reversing the sequence of impact assessment and the interagency coordination and determined this would not be efficient. Assuming that the staff performs an in-house technical analysis and impact assessment prior to interagency coordination, then a future analysis by the licensees will be needed due to the

limitations of the NRC in-house analysis. These limitations include not having all the site-specific details in order to perform a more accurate technical and resource analysis.

Based upon Commission direction, the staff identified three options for consideration:

Option 1 – Add an NRC technical and resource analysis step into the screening process before Intelligence, Law Enforcement, and Homeland Security Communities input.

PRO:

Adding a step in the ACSP by conducting an NRC in-house review and technical and resource analysis of the characteristic provides the Commission with more information for its deliberations and pre-decisional thinking without involving stakeholders at this preliminary stage of information gathering.

CON:

Providing the in-house NRC analysis without engaging the Intelligence, Law Enforcement, and Homeland Security Communities first could potentially prove inefficient regarding NRC staff time and resources by deferring staff access to outside agency expert opinion and analysis to the NRC. This increases the possibility that the staff's assessment could incorporate flawed assumptions regarding threat characteristics. The staff focuses its interactions with other agencies to include a discussion of what actions, if any, these agencies are taking to modify the strategies for protection of their equities in the homeland. These interactions have obviated the need for further staff analysis in a number of cases, and could do so for future studies.

Option 2 – Add an NRC technical and resource analysis step into the screening process after Intelligence, law Enforcement, and Homeland Security Communities input.

PRO:

Conducting another step in the ACSP by conducting an NRC in-house review of the technical and resource analysis provides the Commission with more information for its deliberations and pre-decisional thinking before involving non-Federal stakeholders at this preliminary stage of information gathering. Conducting NRC technical and resource analyses after the Intelligence, Law Enforcement, and Homeland Security Communities input step provides NRC staff and the Commission with the greatest amount of information available, and potentially screens out the adversary characteristic before reaching this stage, as stated in Option 1. It may also refine the inputs used in the staff's analysis, thereby making it more effective and reducing the likelihood of subsequent rework.

CON:

Pre-decisional thinking shared outside the Agency could potentially inhibit the independence of the Commission's decision-making process.

Option 3 – Do not change the ACSP – keep it as it currently stands.

This option keeps the process the same and the Commission would not receive an NRC in-house analysis of the technical and resource analysis until the Disposition and Communication Plan at the end of the process.

RECOMMENDATIONS:

The staff recommends Option 2 – add an NRC technical and resource analysis step after Intelligence and Law Enforcement Communities' input. The staff believes this option will give the Commission the greatest amount of information; provide the staff the most amount of information available at the Federal level for the staff to conduct its technical and resource analysis; and not involve non-Federal stakeholders in the Commission's predecisional deliberations at this early stage in the process.

COORDINATION:

The Office of the General Counsel reviewed this package and has no legal objection.

/RA/

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