



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

PLEASE RESPOND BY:
June 6, 2019

May 21, 2019

COMSECY-19-0006

MEMORANDUM TO: Chairman Svinicki
Commissioner Baran
Commissioner Caputo
Commissioner Wright

FROM: Margaret M. Doane *Margaret M. Doane*
Executive Director for Operations

SUBJECT: REVISED SECURITY INSPECTION PROGRAM FRAMEWORK
(OPTION 3) IN RESPONSE TO SRM-17-0100

This memorandum responds to SRM-SECY-17-0100, "Staff Requirements-SECY-17-0100 – Security Baseline Inspection Program Assessment Results and Recommendations for Program Efficiencies," dated October 9, 2018 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML18283A072), in which the Commission approved the staff's recommendation to modify the force-on-force (FOF) inspection program to include one U.S. Nuclear Regulatory Commission (NRC)-conducted FOF exercise and an enhanced NRC inspection of a licensee-conducted annual FOF exercise. Specifically, the purpose of this memorandum is to provide to the Commission, for review and approval, a revised baseline security inspection program framework that implements the changes directed in SRM-SECY-17-0100. This memorandum also discusses how the revised framework addresses an indeterminate outcome from an NRC-conducted FOF exercise, including how the staff will determine what, if any, additional inspection activities are warranted to ensure the NRC can still meet its oversight responsibilities even in the case of an indeterminate exercise outcome. Finally, the memorandum provides the staff's assessment of whether there exist any obstacles to the use of licensee Multiple Integrated Laser Evaluation System (MILES) equipment during NRC-conducted or licensee-conducted FOF exercises.

SRM-SECY-17-0100 also directed the staff to provide recommendations for crediting a broader set of operator actions, including the use of FLEX equipment, and providing credit for response by local, State, and Federal law enforcement in the security inspection program. The staff is providing these recommendations in a separate paper titled "Crediting Options for Operator Actions and Law Enforcement Response."

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Enclosure 2 transmitted herewith contains
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Summary

This memorandum discusses and provides to the Commission, for review and approval, the framework for a revised baseline security inspection program. While the baseline security inspection program comprises a suite of 10 inspection procedures, this revision only focuses on the two procedures related to FOF exercises as identified in the staff's recommended Option 3 in SECY-17-0100, "Security Baseline Inspection Program Assessment Results and Recommendations for Program Efficiencies," dated October 4, 2017 (ADAMS Accession No. ML17223A279). Specifically, the revised inspection program framework includes a FOF inspection comprising one NRC-conducted exercise and an enhanced NRC inspection of a licensee-conducted annual FOF exercise. To implement this revised baseline security inspection program framework, the staff revised the applicable inspection procedures (IPs) and significance determination process (SDP) (see Enclosures 1, 2, and 3).

To account for the reduction from two NRC-conducted FOF exercises to one NRC-conducted FOF exercise, the staff modified IP 71130.03, "Contingency Response – Force-on-Force Testing," accordingly (see Enclosure 1). In addition to the change in the number of exercises, the staff further revised the IP to place a greater focus on mission planning and exercise evaluation, and to incorporate other process efficiencies and improvements.

To incorporate the enhanced inspection effort of a licensee-conducted annual exercise, the staff expanded the guidance in IP 71130.05, "Protective Strategy Evaluation and Performance Evaluation Program" (see Enclosure 2). The expanded guidance to inspectors focuses on the licensee's scenario planning and development, adversary planning and preparation, and the use of licensee MILES equipment.

This memorandum discusses how the new inspection regime would address an indeterminate exercise, including how the staff would determine what, if any, additional inspection activities are warranted. The staff is maintaining the indeterminate outcome characterization as an overall determination for situations where the exercise and associated inspection activities do not provide sufficient information to determine whether the implementation of the licensee's protective strategy was effective. The staff added guidance to the FOF inspection program to further reduce the number of indeterminate outcomes.

To account for the changes to the FOF inspection program, the staff also made changes to the FOF SDP in Inspection Manual Chapter (IMC) 0609, "Security Significance Determination Process for Power Reactors," Appendix E, Part II "Force on Force Significance Determination Process" (see Enclosure 3). The staff developed a simplified FOF SDP model that addresses exercise outcomes of ineffective or indeterminate. Under this model, a finding related to ineffective exercise performance is screened as a Green finding. Performance deficiencies that are not associated with an ineffective outcome will be redirected to the Baseline Security Significance Determination Process (BSSDP). The revised FOF SDP model also provides a process to determine the additional inspection activities, if any, for both ineffective and indeterminate outcomes.

The staff also completed an assessment to determine if there are any obstacles to the use of licensee MILES equipment during NRC-conducted FOF exercises. The staff identified the lack of standardization across the industry as an obstacle that could be addressed through the development and implementation of NRC standards for safety, equipment technology, maintenance, and testing. Since the program would be voluntary and the industry has

expressed interest in deferring further work in this area, the NRC staff will continue to engage with industry at an appropriate time to develop MILES standards so that licensees may have the option to use their own MILES equipment in the future during NRC-conducted FOF exercises.

Background

In accordance with Section 170D of the Atomic Energy Act (AEA) of 1954, as amended by section 651 of the Energy Policy Act of 2005, the NRC conducts security evaluations that include FOF exercises to assess the ability of a private security force to defend against any applicable design basis threat (DBT). To the maximum extent practicable, the FOF exercises simulate security threats in accordance with the applicable NRC-established DBT. The NRC's oversight ensures that licensees correct any performance deficiencies that adversely affect the ability of the licensee's security force to protect against the applicable DBT.

The staff has implemented several changes to the FOF inspection program for operating reactors over the past 4 triennial inspection cycles. During the first three triennial inspection cycles (2005-2007, 2008-2010, 2011-2013), each FOF inspection consisted of three exercises. In 2014, the staff revised the FOF inspection program to reduce the number of FOF exercises from three to two, expand the formal FOF exercise critique process, and implement mandatory inspection of licensee-conducted annual FOF exercises.¹ Since 2014, the staff has implemented several additional changes to the program, primarily in response to lessons-learned reviews, which have reduced the average number of direct inspection effort hours for the FOF inspection by approximately 17 percent. In 2017, the staff conducted a comprehensive assessment of the security baseline inspection program, including FOF, to identify program improvements and efficiencies.² Based on its assessment of the security baseline inspection program, the staff found the program, including FOF, to be effective. However, the staff also identified further opportunities to adjust the FOF inspection portion of the program to realize additional improvements and efficiencies.

Discussion

The security inspection program is comprised of a suite of inspection procedures that provide for a risk-informed approach, which defines the minimum level of inspection that all plants will receive regardless of performance. The overall objective of the program is to monitor all power reactor licensees at a defined level of effort to assure licensees' performance meets the objectives for the security cornerstone of the Reactor Oversight Process. Consistent with direction in SRM-SECY-17-0100, the staff developed a framework for a revised security baseline inspection program. The revisions are specific to the following inspection documents and the related SDP:

- IP 71130.03, "Contingency Response – Force-on-Force Testing;"
- IP 71130.05, "Protective Strategy Evaluation and Performance Evaluation Program;" and
- IMC 0609, "Security Significance Determination Process for Power Reactors,"

¹ See SECY-14-0088, "Proposed Options to Address Lessons-Learned Review of the U.S. Nuclear Regulatory Commission's Force-On-Force Inspection Program in Response to Staff Requirements Memorandum –COMGEA/COMWCO-14-0001," dated August 20, 2014 (ADAMS Accession No. ML14139A231).

² SECY-17-0100, "Security Baseline Inspection Program Assessment Results and Recommendations for Program Efficiencies."

Appendix E, Part II “Force on Force Significance Determination Process.”

In SRM-COMSECY-16-0022, “Staff Requirements – COMSECY-16-0022 – Proposed Criteria for Reactor Oversight Process Changes Requiring Commission Approval and Notification,” dated May 12, 2017 (ADAMS Accession No. ML17132A359), the Commission approved, with some modifications, the staff’s proposed criteria for Reactor Oversight Process changes requiring Commission approval or notification. These criteria specify that “[c]hanges to ROP thresholds, including but not limited to [SDP] thresholds” should be presented to the Commission for approval prior to implementation. Accordingly, the revised draft IMC 0609, Appendix E, Part II is enclosed for Commission approval prior to implementation. Additionally, the criteria in SRM-COMSECY-16-0022 specify that for “[s]ignificant changes to the implementation of existing ROP programs (e.g., baseline and supplemental inspection procedures, implementation of the assessment program),” the staff should notify the Commission prior to implementation. Accordingly, IP 71130.03 and IP 71130.05 are enclosed as notification to the Commission of the revisions prior to implementation.

Revised Baseline Security Inspection Program

The staff organized its discussion of the revised baseline security inspection program to address five elements of the revised program: (1) modifications to the NRC-conducted FOF exercises; (2) enhanced inspection guidance for licensee-conducted FOF exercises; (3) treatment of indeterminate exercise outcomes for NRC-conducted FOF exercises; (4) revisions to the SDP for the FOF exercises; and (5) use of licensee MILES equipment for NRC-conducted or licensee-conducted FOF exercises. Each of these elements is discussed in turn, below.

1. NRC-Conducted Force-on-Force Exercises

The most significant change to the inspection program is the reduction from two NRC-conducted FOF exercises to one NRC-conducted FOF exercise. To account for this change, the staff modified IP 71130.03 (see Enclosure 1). In addition to the change in number of exercises, the staff further revised the IP to place a greater focus on mission planning and exercise evaluation. The staff removed a number of inspection elements that represented duplicative efforts found in other inspection procedures. Additionally, the staff revised the number of direct inspection effort hours associated with the inspection activity due, in part, to efficiencies already gained and identified through reviews of past inspection data. This direct inspection effort hour reduction is reflected in the IP across the planning and exercise weeks. With the reduction in direct inspection effort hours, staffing for NRC-conducted FOF planning week activities was also reduced from four inspectors to three inspectors. The following table represents the resource allocations for each triennial FOF inspection.

Current IP 71130.03 allocation	393 direct inspection effort hours triennially
Revised IP 71130.03 allocation	275 direct inspection effort hours triennially
Total Reduction	118 direct inspection effort hours triennially

In Enclosure 1 to SECY-17-0100, the staff identified three proposed process enhancements: (1) add an extra week between the planning and exercise portions of the FOF inspection to permit licensees and staff more time to prepare for the exercises; (2) embed the mock adversary force (MAF)³ director with NRC staff during the planning week activities to streamline

³ SECY-17-0100 referred specifically to the composite adversary force (CAF), which is the mock adversary organized and provided by the Nuclear Energy Institute (NEI). However, the NEI CAF and the

the scenario development process; and (3) facilitate the arrival of the MAF team on-site 1 week earlier to allow training for the exercise week during normal work hours and minimize after-hours/weekend sessions. The staff has determined that adding an extra week between planning and exercise weeks is not necessary following the reduction from two exercises to one exercise. The proposed revisions to IP 71130.03 include the ability to implement the second and third enhancements at the option of the licensee.

2. Licensee-conducted Force-on-Force Exercises

To implement the enhanced NRC inspection of a licensee-conducted annual FOF exercise, the staff revised the procedures for the Protective Strategy Evaluation and Performance Evaluation Program, IP 71130.05 (see Enclosure 2). The staff determined that changes were needed in order to help ensure that NRC inspectors are evaluating both the performance of the adversary force and the licensee's development and implementation of the exercise scenario. The expanded inspection guidance is associated with existing elements within the inspection procedure with a focus on the following: (1) the licensee's scenario planning and development; (2) adversary planning and preparation; and (3) use of licensee MILES equipment in licensee-conducted FOF exercises. These enhancements to IP 71130.05 require a slight increase in resources of 4 additional hours of direct inspection effort.

The NRC's enhanced inspection will evaluate the licensee's protective strategy, the performance of the licensee's adversary force, and the development and implementation of the licensee's exercise scenarios. It does not change the requirement that the licensee-conducted exercises include scenarios designed to test and challenge any component or combination of components of the onsite protective strategy, in accordance with Appendix B to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, paragraph VI.C.3.(m)(2). The NRC's enhanced inspection is designed to identify potential deficiencies in the protective strategy.

3. Analysis of Indeterminate Exercise Outcomes

In 2014, the staff implemented a number of revisions to the FOF program to include a formal definition of indeterminate exercises. The formal definition of an indeterminate exercise outcome was established to help ensure that this outcome characterization was applied consistently. Indeterminate exercise outcomes are defined as:

Exercises where the results were significantly skewed by an anomaly or anomalies, resulting in the inability to determine the outcome of the exercise (e.g., site responders neutralize the adversaries using procedures or practices unanticipated by the design of the site protective strategy or training of security personnel to implement the site protective strategy or significant exercise control failures to include controller performance failures). The inability to reliably determine the outcome of the exercise can also create an indeterminate exercise.⁴

Also, in 2014, the staff implemented revisions to the baseline security inspection program framework that included an annual observation of a licensee-conducted FOF exercise. One purpose of observing an annual licensee-conducted FOF exercise was to obtain additional

Joint Composite Adversary Force (the mock adversary organized and provided by Entergy Operations, Inc. and NextEra Energy, LLC) are both used as adversaries for NRC-conducted FOF exercises. Therefore, to eliminate confusion, this paper uses the more general term MAF.

⁴ IP 71130.03, "Contingency Response – Force-on-Force Testing."

information on identifying and correcting deficiencies associated with control of FOF exercises, thereby reducing the number of indeterminate exercises.⁵

In addition to implementing measures that reduce the number of indeterminate exercise outcomes through operational controls during FOF inspections, the staff is adding guidance to the FOF inspection program to further reduce the likelihood of indeterminate exercise outcomes. For example, the expanded guidance provides additional measures that could be performed such as: (1) continuing the exercise by resurrecting adversaries; (2) conducting additional walk-downs during timeouts or following the closure of the exercise window; and (3) conducting post-exercise interviews with players and licensee controllers to gain additional insights. In the rare case where an exercise outcome of effective or ineffective cannot be made (i.e., indeterminate), additional inspection activities will be considered (see Re-Visit Actions in Enclosure 3).

In the case of an indeterminate exercise outcome, the staff will take the appropriate action to ensure that the NRC is meeting Section 170D of the AEA. A security evaluation that includes an indeterminate exercise could satisfy the statute if it were based, in part, on results that were gathered from the exercise, even though the overall outcome of that exercise was not able to be determined. This is because the FOF exercise is only one part of the staff's overall security evaluation that includes multiple other security baseline inspection procedures. If, however, there were no useable observations from the single NRC-conducted exercise, the exercise would need to be rescheduled.

4. Force-on-Force Significance Determination Process

To account for the changes to the FOF inspection program framework, the staff also made changes to the FOF SDP in IMC 0609, Appendix E, Part II that is used to assess ineffective and indeterminate FOF exercise outcomes (see Enclosure 3). Specifically, revisions reflect the elimination of one NRC-conducted exercise. Under the previous framework, the staff utilized an assessment methodology whereby the licensee's performance during two NRC-conducted FOF exercises was considered when determining the overall regulatory oversight needed for power reactor licensees. This assessment methodology combined two FOF exercise outcomes and also considered performance threshold criteria, which reflected the presence or absence of other open security-related findings against the licensee that were not related to the evaluated exercises. Once the scores associated with those assessment items were tabulated, the staff established the licensee's overall performance level and identified the appropriate significance of findings and follow-on actions, if any.

The new framework will now evaluate significance based on the input of one NRC-conducted FOF exercise. The new framework also eliminates marginal exercise outcomes. The staff determined that this categorization was unnecessary because a marginal exercise outcome represents an effective implementation of the protective strategy; thus, exercises that previously would have been graded as marginal will now be recorded as effective and will not be considered as a performance deficiency. Finally, the new framework eliminates performance threshold criteria as a factor in determining overall significance. This criteria was eliminated because the staff determined the elements considered as part of the performance threshold criteria were already accounted for in the overall assessment program. The staff concluded that utilizing performance deficiencies not related to the evaluated exercise to assess the

⁵ "Effectiveness Review of Recent Security Baseline Inspection Program Revisions," dated December 12, 2016 (ADAMS Accession No. ML16263A009), (not publicly available).

significance of the exercise outcome was not aligned with the reactor oversight process and potentially could aggregate findings leading to unnecessary escalated enforcement actions.

In developing the framework, the staff considered four potential approaches for a significance determination process for FOF exercises based on the reduction to one NRC-conducted exercise: (1) developing a new SDP with credit for operator actions; (2) utilizing the BSSDP⁶ and removing the FOF SDP altogether; (3) eliminating the characterization of exercise outcomes; and (4) developing a new simplified FOF SDP.

The first approach looked at developing a new FOF SDP that would replace the current performance threshold criteria inputs with a mitigation process that considers related available operator actions that could be implemented to prevent or mitigate significant core damage. In this model, the mitigation would be applied for ineffective exercise outcomes if the licensee meets criteria to demonstrate that reasonable assurance exists that mitigation of core damage could be achieved. However, the staff determined that the criteria for mitigation will be site-specific and may have subjective inputs and, therefore, may not be consistently applied across the program. Thus, the staff concluded that this approach would not be acceptable.

The second approach considered removing FOF exercise outcomes from the FOF SDP process and eliminating the FOF SDP. In this model, the staff considered identifying individual performance deficiencies associated with the licensee's physical protection program during FOF exercises and screening them utilizing the BSSDP. While this model proposed the use of a well-established SDP, the BSSDP was not developed for the purpose of evaluating performance deficiencies related to FOF exercise outcomes. Therefore, staff determined that utilization of the BSSDP would require significant revision and modification to the BSSDP and would potentially result in unwarranted increased significance when screening normal baseline findings. Therefore, the staff determined that this model would not be acceptable.

The third approach considered eliminating the characterization of exercise outcomes altogether. In the absence of exercise outcomes, the NRC would assess the ability of the licensee's physical protection program to defend against the DBT through the NRC's robust, multi-faceted inspection programs. The activities under the reactor oversight process security cornerstone provide for evaluation of the security of operating reactors annually using a performance indicator and a suite of inspection procedures, including the triennial NRC-conducted FOF exercise, that encompass training, equipment functionality, protective strategies, and target sets. Specifically, under this model the NRC would continue to use the NRC-conducted FOF exercise to evaluate and assess the licensee's protective strategies and would further ensure appropriate corrective actions were taken by licensees through the use of the corrective action program. Given the significance and complexity of this change, the staff believes further interactions with stakeholders are needed and that it would not be appropriate to implement the change at this time.

5. The fourth approach uses a simplified model where all performance deficiencies that meet the more-than-minor threshold are initially assessed using the FOF SDP. Findings related to ineffective exercise performance are screened as a Green finding. Performance deficiencies that are not associated with an ineffective outcome will be redirected to the BSSDP. Inspectors will then utilize the FOF SDP to determine the appropriate re-visit action

⁶ IMC 0609, "Security Significance Determination Process for Power Reactors," Appendix E, Part I "Baseline Security Significance Determination Process."

for both ineffective and indeterminate outcomes.⁷ Additional insights into the staff's evaluation of this model are discussed below.

In considering the appropriate disposition of FOF exercises where the licensee's performance is rated as ineffective, the staff conducted a review of the last cycle of FOF exercises that resulted in ineffective exercise outcomes. The staff determined that each of those exercises resulted in Green findings. The staff further reviewed the performance of each licensee following a Green finding for an ineffective FOF outcome, and determined that there were no signs of continued degraded performance in any licensee's ability to implement its protective strategy. Specifically, the licensees who demonstrated ineffective exercise performance during the last triennial cycle displayed effective protection against the DBT adversary during the subsequent triennial FOF inspection activity. These historical results suggest that a Green finding is an appropriate characterization for an ineffective FOF exercise outcome and is sufficient to ensure that licensees correct performance deficiencies.

The staff also considered other factors during the development of the simplified SDP model. One factor was that FOF exercises contain artificialities and simulations, both of which can impact response force actions and adversary actions during an exercise in a manner that challenges the realism associated with the exercise. Because a simulation or artificiality could impact the licensee's response negatively, staff believed it appropriate to screen ineffective exercise outcomes as Green findings. The staff also considered the ability of the licensee to take mitigative measures in the event of the loss of a target set. This includes the industry's FLEX strategy that was developed in response to lessons learned at Fukushima and, in some circumstances, can be utilized to prevent or mitigate the effects of radiological sabotage. Moreover, if the staff becomes aware of a systemic programmatic failure within the licensee's physical protection program, the NRC would apply the BSSDP to evaluate and assess the significance of the performance deficiency, which would provide the NRC with a path toward escalated enforcement. Based on these factors, the staff determined that the licensee must continue to identify and correct performance deficiencies associated with the implementation of its physical protection program, and that the characterization of an ineffective FOF exercise outcome as a Green finding would provide the licensee with the appropriate amount of regulatory oversight to ensure those deficiencies will be corrected in a timely manner.

The simplified FOF SDP will characterize ineffective exercise outcomes as Green findings and will assign re-visit actions for both indeterminate and ineffective outcomes. Furthermore, the staff will continue to evaluate corrective actions during subsequent baseline inspections. The staff determined that the fourth SDP model would require the fewest modifications to implement and would, therefore, provide the most efficient method to ensure licensees maintain an effective physical protection program. This simplified SDP model provides consistent and objective outcomes that can be applied across the FOF inspection program. For these reasons, the staff selected the fourth approach for the revised SDP as described in Enclosure 3.

6. Assessment of the Use of Licensee MILES Equipment

In SRM-SECY-17-0100, the Commission directed the staff to assess whether there exist any obstacles to the acceptance by NRC of the use of licensee MILES equipment in both the

⁷ Enclosure 3, IMC 0609, "Security Significance Determination Process for Power Reactors," Appendix E, Part II "Force on Force Significance Determination Process," summarizes these additional inspection activities. The three re-visit actions are: (1) an NRC-conducted exercise; (2) NRC observation and assessment of a licensee-conducted FOF exercise; or (3) review of corrective action measures.

NRC-conducted and the licensee-conducted FOF exercises and, if none, directed the staff to adopt this practice. Currently, the NRC provides MILES equipment for the NRC-conducted FOF exercises, which helps ensure consistency across the FOF inspection program, and that potential conflicts of interest are appropriately mitigated during an NRC-conducted FOF exercise. Licensees use their own MILES equipment for the licensee-conducted FOF exercises, however licensee MILES equipment is not currently standardized across the industry.⁸

The staff completed its assessment and has identified that the lack of standardization across the industry presents an obstacle to adopting the use of licensee MILES equipment in the NRC-conducted FOF exercises. In order to ensure that the NRC continues to meet the requirements of Section 170D of the AEA, the staff concluded that licensees who elect to use their own MILES equipment should meet NRC standards for safety, equipment technology, maintenance, and testing. Specifically, the use of NRC standards would ensure that potential conflicts of interest associated with the use of a licensee's own MILES equipment would be appropriately mitigated and that the FOF exercises provide a credible test of the licensee's protective strategy. Additionally, the use of NRC standards would allow the staff to effectively compare FOF exercise results and analyze trends across licensees and over time.⁹ The staff would need to engage with the industry to establish appropriate standards. As a condition of voluntarily using their own MILES equipment for NRC-conducted exercises, licensees would need to demonstrate that they meet the standards. Because the standards (if established) would only apply to licensees who would voluntarily elect to implement the use of their own MILES equipment during NRC-conducted FOF exercises, backfitting would not apply. Backfitting is defined, in part, in 10 CFR 50.109 as *"the modification of or addition to . . . the procedures or organization required to . . . operate a facility; any of which may result from a new or amended provision in the Commission's regulations or the imposition of a regulatory staff position interpreting the Commission's regulations that is either new or different from a previously applicable staff position."* Approving the use of licensee MILES equipment would not constitute backfitting, because the use of licensee MILES equipment during NRC-conducted FOF exercises would be a voluntary election and is not an activity that is required for operation of a facility (licensees have no obligation to provide MILES equipment for NRC-conducted exercises, and the NRC would continue to provide MILES equipment for any licensee who did not elect to use their own MILES equipment). Overall, there is a potential for long-term cost savings to the licensees to utilize their own MILES equipment. However, there may be an initial increase in cost to both the NRC and industry to establish standards and for development of

⁸ NRC regulations do not require that licensees use MILES equipment for licensee-conducted FOF exercises. Specifically, Appendix B to 10 CFR Part 73, paragraph VI.C.3.(k)(3) requires that licensees "Implement the use of systems or methodologies that simulate the realities of armed engagement through visual and audible means, and reflect the capabilities of armed personnel to neutralize a target through the use of firearms." In practice, all licensees use a MILES system to meet this requirement. The staff is not proposing, nor is industry requesting, any change that would impact this requirement or how licensees satisfy this requirement using licensee MILES equipment.

⁹ The staff is not proposing that NRC-developed standards be applied to licensee MILES equipment that is used only for licensee-conducted FOF exercises. Consistent with Appendix B to 10 CFR Part 73, licensees are required to conduct annual FOF exercises to assess the effectiveness of the physical protection program and protective strategy, and to provide training to security personnel; the existing practices regarding the use of licensee MILES equipment for licensee-conducted exercises are sufficient to meet these requirements. In addition, the FOF requirements of Section 170D of the AEA apply to NRC-conducted FOF exercises but do not apply to the licensee-conducted FOF exercises, and therefore additional programmatic changes are not needed to meet these requirements.

NRC oversight. Since it would be a voluntary program, the NRC may still need to maintain the use of MILES equipment through a contractor.

The staff discussed the option of utilizing licensee MILES equipment for NRC-conducted FOF exercises with licensees and NEI through public meetings, and the consensus is that licensees prefer to continue using the NRC-provided MILES equipment for the time being. In a letter dated January 18, 2019, NEI stated that pursuing NRC approval for use of licensee MILES equipment at this time would be an “unnecessary distraction” from other actions that are of significant interest to NEI members.¹⁰ Accordingly, NEI informed the NRC that it would like to defer further work related to obtaining NRC approval for use of licensee MILES equipment in NRC-conducted FOF exercises.

Since the program would be voluntary and the industry has expressed interest in deferring further work in this area, the staff will continue to engage with industry at an appropriate time to develop these MILES standards so that licensees may have the option to use their own MILES equipment in the future. The staff will inform the Commission through a Note to the Commissioners’ Assistants once it has commenced work developing these standards with industry and has initiated these changes to the FOF exercise program.

Because licensees already use their own MILES equipment for the licensee-conducted FOF exercises, no changes are needed to allow licensees to continue this practice. However, as described above, the NRC staff has revised the procedure associated with inspection of the licensee-conducted FOF exercises to include expanded guidance on the use of licensee MILES equipment.

Conclusion

The staff requests Commission approval of the staff’s proposed framework for a revised security inspection program as described in this paper. It includes one NRC-conducted FOF exercise, an enhanced NRC inspection of a licensee-conducted annual FOF exercise, and guidance for addressing an indeterminate outcome from an NRC-conducted FOF exercise.

The staff plans to evaluate whether to eliminate the characterization of exercise outcomes from the FOF program, and will work with external stakeholders as part of this evaluation. Also, the staff plans to defer implementation of the voluntary use of licensee MILES equipment in NRC-conducted FOF exercises until industry shows interest in pursuing such an option, including work on NRC-developed MILES standards. Both of these issues will be brought to the Commission, should the staff recommend any changes.

The staff is continuing to finalize the IPs and SDP using the NRC’s normal revision process. If the staff receives Commission approval of the framework by July 1, 2019, it will implement the new program by the beginning of Inspection Cycle 6 (January 2020). The staff will inform the Commission of its readiness to implement the revised FOF inspection program through a Commissioner Assistant Note or Commissioner Assistant Brief.

The Office of the General Counsel has reviewed this memorandum and has no legal objections.

SECY, please track.

¹⁰ See NEI letter dated January 18, 2019, “Use of Licensee Multiple Integrated Laser Engagement System (MILES) Equipment in Force-on-Force Exercises” (ADAMS Accession No. ML19018A229).

Enclosures:

1. Draft Revised IP 71130.03
2. Draft Revised IP 71130.05 (with redline/strikeout)
3. Draft Revised IMC 0609, Appendix E, Part II
4. Analysis of Indeterminate Outcomes

cc: SECY
OGC
OCA
OPA
CFO

SUBJECT: REVISED SECURITY INSPECTION PROGRAM FRAMEWORK (OPTION 3) IN
RESPONSE TO SRM-17-0100

DATE: May 21, 2019

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