

DISCUSSION OF TOPICS

CATEGORY II PUBLIC MEETING FOR DG-5048

JULY 25, 2018

- **Requirements in Draft Regulatory Guide 5048 Differs from Rule Language**

A number of participants voiced concerns that the guidance in Draft Regulatory Guide (DG) 5048 unduly expands upon what is in the regulation. Some listed specific examples - visitor procedures, owner controlled area searches, and communications requirements - where they believe the newly included DG language oversteps the original language in Title 10 of the *Code of Federal Regulations* 73.55; and, thus, argue that those specifics should remain in the implementing procedures and not in the security plan.

The NRC staff responded that the purpose of changes to DG 5048 is to assist applicants and licensees through the security plan review process by clarifying the types of initial information that should be considered by licensees in the development of security plan descriptions and to avoid NRC reviewer questions upon submission. The NRC staff stressed that the intention is not to increase or expand upon regulations or level of detail, as guidance cannot legally do so, but is instead, intended to provide new and existing licensees with comprehensive security plan guidelines from which licensees can develop complete and accurate security plans.

- **DG 5048's relationship to/impact on existing documentation**

Given the types of information discussed in DG 5048, questions were raised about how the DG would interact with documents that have been previously endorsed or are already in use - specifically, NEI 03-12 "Template for the Security Plan, Training and Qualification Plan, Safeguards Contingency Plan, [and Independent Spent Fuel Storage Installation Security Program]" Revision 7, dated October 2011, and NEI 11-08 "Guidance on Submitting Security Plan Changes," dated August 2012, but also NUREG 0800 "Standard Review Plan," Chapter 13.6, dated March 2007. A great deal of attention was given to its impact on NEI 03-12 and if it could continue to function as intended. Stakeholders questioned why NEI 03-12 was no longer sufficient on its own. Particularly, if the black text is endorsed language and the bracketed text is for licensees to enter site-specific details, where does DG 5048 come into play? Can 03-12 stand on its own or will additional information have to be included? Questions about the impact it would have on NEI 11-08 – particularly why new guidance is necessary when NEI 11-08 provides more detail for security plan changes - were also fielded.

The NRC staff responded that the DG was developed to complement NEI 03-12 and that DG 5048 will not unilaterally drive changes to NEI 03-12. Staff emphasized that it is the responsibility of the licensee to ensure that the generic language in NEI 03-12 represents complete and accurate information relative to each facility, individually. If the licensee determines the generic NEI 03-12 language to be insufficient, it is their responsibility to amend that language to further encompass site-specific conditions.

- **Scope and Implementation of DG 5048**

The overall scope of DG 5048 and how it should be used by both licensees and NRC staff to evaluate security plans – both amendments to existing plans and the submission of new plans – was a concern for the stakeholders in attendance. Some worried that it may be used retroactively and could potentially constitute a backfit. Others worried that the perception may be that DG 5048 supersedes existing endorsed documents – like NEI 03-12 - and may cause confusion. They also questioned the necessity of the document, given that only a few new licensing applications are fielded at a given time.

The NRC staff responded that DG-5048 was developed primarily for new licensees and could also be used to guide existing licensees seeking changes to their site-specific security plans. A representative from the Office of the General Counsel stressed that regulatory guidance cannot legally impose new regulations. Stating that regulatory guidance provides one method to meet requirements laid out in a rule, but that it is not the only method by which said requirements can be met. The NRC staff further explained that Section D, the implementation section in the DG, is generic across all regulatory guides and does not impose new regulations on existing security plans.

- **Potential conflation of licensing guidance information and inspection guidance information**

Stakeholders had questions about what level of specificity belongs in the implementing procedure versus the security plan. They requested further clarification on what exactly is being asked of them and why it should now be included in the security plan as a condition of their license.

The NRC staff responded that the approval of a security plan is predicated on the NRC staff determination that all programmatic elements have been addressed in a licensee site-specific security plan and that DG 5048 simply provides guidance to licensees relative to the types of information the NRC staff will look for in making that determination. The NRC staff emphasized that they are not looking for the implementing procedures to be provided in the security plan; but rather they are looking for a high level summary of the basic who, what, where, when, why, and how that are addressed in procedures – without the same level of explicit detail provided in the site implementing procedures.