From: Christian Araguas
To: <JTDAVIS@southernco.com>
Date: 10/15/2007 3:58:55 PM
Subject: Guidance on FFD

Hey Jim,

See Attached.

Christian

Hearing Identifier: Vogtle_Public
Email Number: 698

Mail Envelope Properties (472A0ADB.HQGWDO01.TWGWPO04.200.2000007.1.CF35D.1)

Subject: Guidance on FFD
Creation Date: 10/15/2007 3:58:55 PM
From: Christian Araguas

Created By: CJA2@nrc.gov

Recipients
<JTDAVIS@southernco.com>

Post Office	Route
TWGWPO04.HQGWDO01	nrc.gov

Files	Size	Date & Time
MESSAGE	40	10/15/2007 3:58:55 PM
FFD Guidance.pdf	98812	11/1/2007 5:20:27 PM

Options
Priority: Standard
Reply Requested: No
Return Notification: None
None

Concealed Subject: No
Security: Standard

August 16, 2007

Mr. Russell J. Bell, Director
New Plant Licensing
Nuclear Generation Division
Nuclear Energy Institute
1776 I Street, NW, Suite 400
Washington, DC 20006-3708

Dear Mr. Bell:

I am responding to your letter dated July 16, 2007, and to related comments from a public meeting held on August 9, 2007, concerning the nuclear industry's proposed approach to satisfy the requirement in 10 CFR 52.79(a)(44) that a combined license (COL) applicant describe its 10 CFR Part 26 Fitness for Duty (FFD) program in the COL application's Final Safety Analysis Report (FSAR).

You propose in your letter that COL applicants use the following language in Section 13.7 of a COL application's FSAR:

> A Fitness for Duty (FFD) program is implemented and maintained to meet the requirements contained in 10 CFR Part 26. The FFD program complies with the FFD requirements contained in 10 CFR Part 26 at the new plant construction site during both the construction and operating phases of the nuclear unit. This program will be implemented at the new plant construction site prior to construction of safety- and security-related structures, systems, and components.

You state that a COL applicant's description of its FFD program can be very brief because the current Part 26 "contains uniquely prescriptive FFD requirements for both the construction and operational phases." You also remark that the new Part 26 "will be even more prescriptive, at least for the operational phase."

First, as the NRC staff noted at the August 9 public meeting: the new Part 26 is not yet in effect, and COL applicants are not required to address it until it goes into effect. Nevertheless, the NRC agrees that the new Part 26 for the reactor's operating phase will be very prescriptive and concludes that FSAR Section 13.7 language stating the applicant's commitment to implement an FFD program that will comply with the new Part 26 for the reactor's operating phase would satisfy the 10 CFR 52.79(a)(44) requirement.

For an applicant's FFD program for construction under the new Part 26, the description requirement could be met by a reference to NEI 06-06, Rev. 1, "Fitness for Duty Program Guidance for New Nuclear Power Plant Construction Sites;" a reference to a regulatory guide if the NRC develops one; or a full description of the program. The Commission explained in SRM-SECY-04-0032, dated May 14, 2004, that a program is

considered “fully described” when “the program is clearly and sufficiently described in terms of the scope and level of detail to allow a reasonable assurance finding of acceptability. Required programs should always be described at a functional level and at an increased level of detail where implementation choices could materially and negatively affect the program effectiveness and acceptability.”

If an applicant references NEI 06-06 while that document is being reviewed by the Commission for endorsement, then the applicant should indicate that NEI 06-06 is under review by the Commission and reference the NRC’s Agencywide Documents Access and Management System (ADAMS) accession number of NEI 06-06. All applicants referencing a generic document such as NEI 06-06 should provide, as appropriate, additional site-specific information. Near-term applicants also need to be aware of the risks of using NEI 06-06. They should ensure that NEI 06-06 provides a full program description because they will be relying on an industry document that has not been reviewed yet by the NRC. Essentially, such applicants will be in the same position as an applicant using its own program description. Also, if the NRC does not endorse NEI 06-06, applications will have to be amended to provide the full description of the applicant’s FFD program for construction. If NEI 06-06 is endorsed by the NRC and the endorsed version differs from the version referenced in the COL application, applicants will need to amend their applications to reflect the revised document. In addition, if the NRC endorses NEI 06-06, the NRC will need to write a safety evaluation on the FFD program description provided in the COL application before issuing a license.

Regarding the current Part 26, the NRC has determined that the proposed language for FSAR Section 13.7 would not meet the requirement of 10 CFR 52.79(a)(44) under the current Part 26 because the current Part 26 is not as prescriptive as the new Part 26 is expected to be. Applicants could meet the requirements of 10 CFR 52.79(a)(44) for the current Part 26 with a full description of: (1) an existing FFD program at the same site as the proposed reactor(s); (2) an existing FFD program used by a licensee within the same corporate family as the applicant; or (3) the following 10 points:

(1) How the FFD program personnel responsibilities will be assigned by the licensee and implemented within the licensee’s organizational units;
(2) The estimated number of persons to be assigned to implement the FFD program;
(3) The general educational and experience requirements for positions or classes of positions necessary to implement the FFD program;
(4) FFD program equipment maintenance and calibration procedures;
(5) Quality assurance procedures for operations and maintenance of FFD program equipment;
(6) Training of supervisors, escorts, and FFD program personnel;
(7) Random drug and alcohol testing rates;
(8) The drugs the licensee will test for and the cutoff level for each of these drugs;
(9) The alcohol testing cutoff level; and
(10) Procedures for establishing which substances the licensee will test for, other than the substances required by 10 CFR Part 26

A fourth option for meeting the requirements of 10 CFR 52.79(a)(44) for the current Part 26 exists. Compliance with the provisions of the December 2006 version of the new Part 26 (ADAMS Accession No. ML062550263) would satisfy most requirements in the current Part 26. Thus, an applicant could submit the text of the new Part 26, minus the

few provisions that conflict with the current Part 26 (e.g., the use of oral fluids for initial alcohol testing), and describe how the applicant would meet those provisions of the current rule that would not be satisfied by compliance with the new rule.

Notwithstanding the option chosen by the applicant, the program description must include implementation milestones (e.g., the FFD program for the reactor's operational phase will be implemented before the receipt of special nuclear material in the form of fuel assemblies).

To comply with the current Part 26 requirements for an entity performing NRC-authorized construction, this entity must comply with the current Part 26 requirements for an operating licensee. Therefore, an applicant's FFD program description under the current Part 26 should be the same for a reactor's construction and operating phases.

During the August 9, 2007, public meeting, the industry asked whether a COL applicant could request an exemption from the requirement of 10 CFR 52.79(a)(44) to describe the applicant's FFD program under the current Part 26. The NRC's response is that the NRC would have to consider any exemption request and the basis for the request in accordance with the applicable standards in the NRC's regulations.

One commenter at the public meeting mentioned that the NRC had previously informed the industry that COL applicants could seek exemptions from the requirement to fully describe FFD programs under the current Part 26. The NRC believes that in past public meetings, stakeholders and NRC staff discussed the possibility of an applicant seeking an exemption from the current Part 26 while requesting NRC authority to conduct certain activities under a limited work authorization pursuant to the current 10 CFR 50.10(e). The NRC is not aware of any previous public discussions concerning COL applicants seeking exemptions from the current Part 26.

The NRC looks forward to continuing to work with the industry and stakeholders to further develop guidance for COL applicants.

Sincerely,

/RA/

William D. Reckley, Branch Chief
Guidance, Rulemaking and Advanced
Reactor Branch
Division of New Reactor Licensing
Office of New Reactors

cc: see attached list

few provisions that conflict with the current Part 26 (e.g., the use of oral fluids for initial alcohol testing), and describe how the applicant would meet those provisions of the current rule that would not be satisfied by compliance with the new rule.

Notwithstanding the option chosen by the applicant, the program description must include implementation milestones (e.g., the FFD program for the reactor's operational phase will be implemented before the receipt of special nuclear material in the form of fuel assemblies).

To comply with the current Part 26 requirements for an entity performing NRC-authorized construction, this entity must comply with the current Part 26 requirements for an operating licensee. Therefore, an applicant's FFD program description under the current Part 26 should be the same for a reactor's construction and operating phases.

During the August 9, 2007, public meeting, the industry asked whether a COL applicant could request an exemption from the requirement of 10 CFR 52.79(a)(44) to describe the applicant's FFD program under the current Part 26. The NRC's response is that the NRC would have to consider any exemption request and the basis for the request in accordance with the applicable standards in the NRC's regulations.

One commenter at the public meeting mentioned that the NRC had previously informed the industry that COL applicants could seek exemptions from the requirement to fully describe FFD programs under the current Part 26. The NRC believes that in past public meetings, stakeholders and NRC staff discussed the possibility of an applicant seeking an exemption from the current Part 26 while requesting NRC authority to conduct certain activities under a limited work authorization pursuant to the current 10 CFR 50.10(e). The NRC is not aware of any previous public discussions concerning COL applicants seeking exemptions from the current Part 26.

The NRC looks forward to continuing to work with the industry and stakeholders to further develop guidance for COL applicants.

Sincerely,

/RA/
William D. Reckley, Branch Chief
Guidance, Rulemaking and Advanced
Reactor Branch
Division of New Reactor Licensing
Office of New Reactors

cc: see attached list

Distribution:
WReckley GWest TMcCune HBenowitz
RidsOgcMailCenter RidsNroDnrlNgif

Accession Number: ML072270296

OFFICE	BC:NSIR/DSO/DDSP/LP	OGC	BC:NRO/DNRL/NRGA
NAME	GWest	HBenowitz	WReckley
DATE	08/20/2007	08/16/2007	08/16/2007

OFFICIAL RECORD COPY

Combination Mailing List:
cc: (page 1)

Mr. Laurence Parme
Manager, GT-MHR Safety & Licensing
General Atomics Company
P.O. Box 85608
San Diego, CA 92186-5608

Mr. David Lochbaum, Nuclear Safety Engineer
Union of Concerned Scientists
1707 H Street, NW, Suite 600
Washington, DC 20006-3919

Mr. Paul Gunter
Nuclear Information & Resource Service
1424 16th Street, NW, Suite 404
Washington, DC 20036

Mr. James Riccio
Greenpeace
702 H Street, NW, Suite 300
Washington, DC 20001

Mr. Adrian Heymer
Nuclear Energy Institute
Suite 400
1776 I Street, NW
Washington, DC 20006-3708

Mr. George Alan Zinke
Project Manager
Nuclear Business Development
Entergy Nuclear
M-ECH-683
1340 Echelon Parkway
Jackson, MS 39213

Ms. Marilyn Kray
Vice President, Special Projects
Exelon Generation
200 Exelon Way, KSA3-E
Kennett Square, PA 19348

Mr. Charles Brinkman
Westinghouse Electric Co.
Washington Operations
12300 Twinbrook Pkwy., Suite 330
Rockville, MD 20852

Mr. Joseph D. Hegner
Lead Engineer - Licensing
Dominion Generation
Early Site Permitting Project
5000 Dominion Boulevard
Glen Allen, VA 23060

Mr. Edward L. Quinn
Longenecker and Associates
Utility Operations Division
23292 Pompeii Drive
Dana Point, CA 92629

Mr. Paul Leventhal
Nuclear Control Institute
1000 Connecticut Avenue NW
Suite 410
Washington, DC 20036

Mr. Jay M. Gutierrez
Morgan, Lewis & Bockius, LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004

Mr. W. Edward Cummins
AP600 and AP1000 Projects
Westinghouse Electric Company
P.O. Box 355
Pittsburgh, PA 15230-0355

Mr. Gary Wright, Manager
Office of Nuclear Facility Safety
Illinois Department of Nuclear Safety
1035 Outer Park Drive
Springfield, IL 62704

Combination Mailing List:
cc: (page 2)

Mr. Brendan Hoffman
Research Associate on Nuclear Energy
Public Citizens Critical Mass Energy and
Environmental Program
215 Pennsylvania Avenue, SE
Washington, DC 20003

Mr. Lionel Batty
Nuclear Business Team
Graftech
12300 Snow Road
Parma, OH 44130

Mr. Ian M. Grant
Canadian Nuclear Safety Commission
280 Slater Street, Station B
P.O. Box 1046
Ottawa, Ontario
K1P 5S9

Mr. Glenn H. Archinoff
AECL Technologies
481 North Frederick Avenue
Suite 405
Gaithersburg, MD 20877

Mr. Ed Wallace, General Manager
Projects
PBMR Pty LTD
PO Box 9396
Centurion 0046
Republic of South Africa

Mr. Dobie McArthur
Director, Washington Operations
General Atomics
1899 Pennsylvania Avenue, NW, Suite 300
Washington, DC 20006

Mr. Russell Bell
Director
Nuclear Energy Institute
Suite 400
1776 I Street, NW
Washington, DC 20006-3708

Ms. Vanessa E. Quinn, Chief
Radiological Emergency
Preparedness Branch
Nuclear and Chemical Preparedness
and Protection Division
Department of Homeland Security
1800 South Bell Street, Room 837
Crystal City-Arlington, VA 22202

Mr. Ron Simard
6170 Masters Club Drive
Suwanee, GA 30024

Ms. Sandra Sloan
Areva NP, Inc.
3315 Old Forest Road
P.O. Box 10935
Lynchburg, VA 24506-0935

Ms. Anne W. Cottingham
Assistant General Counsel
Nuclear Energy Institute
1776 I Street, NW, Suite 400
Washington, DC 20006

Mr. David Repka
Winston & Strawn LLP
1700 K Street, NW
Washington, DC 20006-3817

Mr. Robert E. Sweeney
IBEX ESI
4641 Montgomery Avenue
Suite 350
Bethesda, MD 20814

Mr. Eugene S. Grecheck
Vice President
Nuclear Support Services
Dominion Energy, Inc
5000 Dominion Blvd.
Glen Allen, VA 23060

Combination List:
cc: (page 3)

E-Mail:
tom.miller@hq.doe.gov
tom.miller@ nuclear.energy.gov
mark.beaumont@wsms.com
sfrantz@morganlewis.com
ksutton@morganlewis.com
jgutierrez@morganlewis.com
sandra.sloan@areva.com
mwetterhahn@winston.com
gcesare@enercon.com
whorin@winston.com
erg-xl@cox.net
steven.hucik@ge.com
david.hinds@ge.com
chris.maslak@ge.com
mgiles@entergy.com
patriciaL.campbell@ge.com
bob.brown@ge.com
jim@ncwarn.org
pshastings@duke-energy.com
ronald.hagen@eia.doe.gov
murawski@newsobserver.com
Cary.Fleming@constellation.com
tansel.selekler@nuclear.energy.gov
tansel.selekler@hq.doe.gov
trsmith@winston.com
James.Beard@gene.ge.com
george.stramback@gene.ge.com
david.lewis@pillsburylaw.com
paul.gaukler@pillsburylaw.com
john.o'neill@pillsburylaw.com
matias.travieso-diaz@pillsburylaw.com
maria.webb@pillsburylaw.com
roberta.swain@ge.com
cee@nei.org