

April 9, 2008

MEMORANDUM TO: Douglas Huyck, Chief  
Reactor Security Licensing and Programs Branch  
Division of Security Policy  
Office of Nuclear Security and Incident Response

FROM: Timothy S. McCune, Senior Security Specialist /RA/  
Reactor Security Licensing and Programs Branch  
Division of Security Policy  
Office of Nuclear Security and Incident Response

SUBJECT: PUBLIC MEETING TO DISCUSS IMPLEMENTATION  
GUIDANCE FOR FITNESS FOR DUTY (FFD) AND  
ACCESS AUTHORIZATION (AA) PROGRAMS FOR  
OPERATING POWER REACTORS

Enclosed is the meeting summary for the March 25, 2008, meeting with the public to discuss the development of implementation guidance for FFD and AA programs. The Category 3 public meeting was held in Rockville, MD. Meeting participants (Attachment 1) included representatives from the Nuclear Energy Institute (NEI), the power reactor licensee community, a background investigation contractor, as well as Nuclear Regulatory Commission (NRC) staff and contractors.

The focus of the meeting was a discussion of the NRC staff's comments on NEI-03-01, Rev. 2, "Nuclear Power Plant Access Authorization Program." This guidance is being considered for endorsement by the NRC through a Regulatory Guide to be prepared after the NEI guidance is finalized.

Enclosure:  
As stated

CONTACT: T. McCune, NSIR/DSP/RSLPB  
(301) 415-6474

Meeting Summary  
March 25, 2008  
NEI 03-01, Rev. 2

Nuclear Power Plant Fitness for Duty (FFD) and Access Authorization (AA) Programs

On March 25, 2008, the NRC staff held a meeting with the public regarding the development of implementation guidance for nuclear power plant access authorization programs in compliance with 10 CFR Part 26. The meeting participants (Attachment 1) included representatives from the Nuclear Energy Institute (NEI), the power reactor licensee community, a background investigation contractor, and NRC staff and contractors. The purpose of this meeting was to discuss the NRC staff's comments on NEI-03-01, Rev. 2, "Nuclear Power Plant Access Authorization Program."

The meeting was noticed on February 29, 2008. The notice is available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. The public can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents, including the meeting notice and agenda, which may be found in ADAMS under accession number ML080530098.

The meeting consisted of a discussion, led by NRC and industry representatives, of the revised NEI draft guidance document and staff comments. After introductions, NEI and industry representatives reviewed the staff's written comments and raised questions on approximately 16 of the 42 staff comments. The following summarizes the discussion of comments and future actions:

**Significant Meeting Items**

1. Fee for Background Investigation Information

The NRC staff expressed the view that institutions (e.g., universities, previous employers) charging a fee for background investigation information does not equate to a refusal, inability, or unwillingness to provide the information, as suggested by the draft guidance. In response, NEI indicated that the industry would compile and share the following information with NRC: (1) data regarding the fees industry is typically charged by companies, previous employers, and educational institutions; and (2) the type and quality of information received once a licensee pays the fee.

2. Implementation Procedures and NEI 03-04

The NRC staff discussed several comments intended to seek more detail on certain aspects of the access authorization program. However, NEI and industry representatives indicated that NEI 03-01 is meant to provide a broad summary of AA program implementation, while licensees' implementation procedures and NEI 03-04 provide more detailed information. NEI and industry indicated that they would update licensee implementation procedures and NEI 03-04 in tandem with NEI 03-01.

### 3. Other Potentially Disqualifying Information

NEI asked NRC staff to clarify the scope of a suitable inquiry when a licensee discovers derogatory information about an individual. Industry representatives explained that a licensee may uncover derogatory information that meets the definition of a “legal action,” per 10 CFR Part 26, but it may not exceed the adjudication criteria licensees use to determine whether or not to conduct a suitable inquiry in compliance with Section 26.69(c)(1). NEI and industry indicated that they would update the definition of “potentially disqualifying information” in the guidance to clarify how licensees would use adjudication criteria in such cases.

### 4. Grandfathering Issues

NEI and industry representatives asked NRC how licensees should apply the new requirements (e.g., sanctions and follow-up testing requirements) to individuals who have violated FFD policies prior to the new rule’s adoption. NRC staff indicated that, generally, the new requirements are not retroactive.

### 5. Editorial Comments

The NRC staff discussed numerous editorial comments intended to clarify the guidance document.

### 6. Next Steps

NEI indicated that it would like the NRC to endorse NEI-03-01 within the next couple of months because there is an industry workshop this summer covering AA requirements. The NRC staff noted that endorsement of NEI-03-01 could take nine months. NRC staff indicated that they would provide NEI with options on how to proceed.

**March 25, 2008, Public Meeting to Discuss NEI-03-01 Implementation Guidance for  
FFD and AA Programs**

Attendance List

NAME	AFFILIATION
Tim McCune	NRC/NSIR
Doug Huyck	NRC/NSIR
Chris Earls	NEI
Lori Hayes	Progress Energy
Georgia Schuh	ICF
Liz Gormsen	ICF
Joe Mihalcik	UniStar Nuclear Energy
Steve Frantz	Morgan Lewis
Mark Resner	NRC/NSIR
Glenn Wilson	Dominion
Sandy Downes	Cartwright, Downes, Inc.
Jacob Kulangara	Bechtel
John Keller	Bechtel
Kay Wallace	TVA
Robert Kelm	NEI-PADS
Susan Techau	Exelon
Ron Casey	Entergy
John Nielsen	INPO
Valerie Barnes	NRC/RES
Niav Hughes	NRC/RES
Autumn Szabo	NRC/RES
Howard Benowitz	NRC/OGC
Peter Prescott	NRC/NSIR
George Fricks	SCE&G

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OFFICE	NSIR/DSP	NSIR/DSP	OGC (NLO)
NAME	D. Huyck	P. Prescott	H. Benowitz
DATE	04/ 07/08	04/ 04/08	04/ 09/08