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73 FR 14278
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NUCLEAR GENERATION DIVISION

May 7, 2008

Mr. Michael T. Lesar
Chief, Rulemaking, Directives and Editing Branch
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Subject: Criteria for Nominating Materials Licensees for the U.S. Nuclear Regulatory Commission's Agency Action Review Meeting.

Project Number: 689

Dear Mr. Lesar:

The Nuclear Energy Institute (NEI)¹ would like to thank you for the opportunity to comment on the proposed criteria for nominating fuel cycle facilities and other materials licensees for the U.S. Nuclear Regulatory Commission's (NRC) Agency Action Review Meeting (AARM). NEI has reviewed the March 17, 2008, Federal Register Notice (73 FR 14278) on this subject, and offers the following comments for your consideration.

General Comments:

On behalf of the fuel cycle industry and other materials licensees, NEI fully supports NRC's continuing effort to further refine its criteria for identifying NRC and Agreement State licensees with significant performance problems for discussion at the agency's AARM. In general, we support the proposed criteria which: 1) are based on the same principles as those underlying the current criteria; 2) provide additional specificity on significant licensee issues and performance trends; and 3) reflect the NRC's current strategic plan. We also support the new criteria for including an event that ranks at a level 3 or higher on the International Nuclear Event Scale which requires reporting to the International Atomic Energy Agency. Sharing of such significant event information will help

¹ NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

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Mr. Michael T. Lesar
May 7, 2008
Page 2

further ensure the safe and secure use of licensed material nationwide as licensees review the event information for applicability to their own programs.

Specific Comments:

Criterion two, "Significant Issue" and Criterion three, "Performance Trend" both include escalated enforcement, with criteria two explicitly referring to Severity Level I and II violations. Criterion three explicitly references NRC's Alternate Dispute Process (ADR) as an element of the enforcement process but criterion two does not reference ADR. The basis for this apparent distinction between the criteria is not clear and should either be clarified or modified to either remove all references to ADR or to add a reference to ADR in criterion two for consistency.

Finally, for clarity, the title of criterion two should be changed to "Significant Issue or Event" to reflect NRC's intent to include both issues and events as stated in the *Federal Register* notice.

Thank you again for the opportunity to provide input. If you have any questions regarding this letter, please contact me at 202-739-8126; fmk@nei.org or Janet Schlueter at 202-739-8098; jrs@nei.org.

Sincerely,



Felix M. Killar, Jr.