

February 26, 2009

Mr. Adam P. McNiece  
198 Grassy Hill Road  
East Lyme, CT 06333

Dear Mr. McNiece:

I am responding to your correspondence received by the U.S. Nuclear Regulatory Commission (NRC) on September 25, 2008. In your correspondence, you proposed that all foreign workers at nuclear power plants undergo security background checks, not be considered visitors, and that their visitor access be limited to 40 hours or less. Your correspondence was referred to the NRC by the U.S. Department of Homeland Security because controlled access to nuclear power plants is regulated by the NRC through Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, "Physical Protection of Plants and Materials."

The NRC has concluded that your request does not meet the NRC's acceptance criteria under 10 CFR 2.802(c)(1) for a petition for rulemaking. Specifically, your request does not describe a general solution to the problem, provide the substance or text of any proposed amendment to the regulations, or specify the regulation that is to be amended. The NRC has also concluded that 10 CFR 2.802(c)(2) is not met because there is no statement of your grounds for and interest in any requested actions. Further, you have not included any supporting information (i.e., relevant technical, scientific or other data) showing that there is a problem with NRC regulations, as is required by 10 CFR 2.802(c)(3). Accordingly, if you wish for the NRC to consider your request further, you must supplement your correspondence of September 25, 2008, to meet the minimum content requirements for a petition for rulemaking. This information must be received by the NRC within 90 days of the date of this letter, or your request will not be docketed as a petition for rulemaking.

It may be helpful for you to know that NRC regulations at 10 CFR 73.56 and 73.57 currently require that all persons with unescorted access to a nuclear power plant, regardless of nationality, are subject to extensive background investigations, including a complete criminal history records check. In addition, NRC regulations at 10 CFR 73.55(d) require that all persons who have not undergone a background investigation be escorted by individuals who have been granted unescorted access, and who have been trained to perform escort duties. These requirements were enhanced by Order of the Commission after the events of September 11<sup>th</sup>, and are also the subject of an ongoing rulemaking to further improve the security of these facilities. The Commission approved this rulemaking for issuance as a final rule on December 17, 2008. You may find more information on this rulemaking on the federal e-rulemaking portal at [www.regulations.gov](http://www.regulations.gov); search on docket ID # NRC-2006-0016.

Please also note that 10 CFR 2.802, not 10 CFR 2.206, sets forth the provisions governing petitions for rulemaking. I have enclosed a copy of the regulations for your convenience. The

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regulations pertaining to the petition process may also be found online at <http://www.nrc.gov/reading-rm/doc-collections/cfr>. If you have any questions, please contact Michael Lesar, Chief, Rulemaking, Directives and Editing Branch, by calling 301-492-3663 or toll-free at 1-800-368-5642, or by e-mail to [Michael.Lesar@nrc.gov](mailto:Michael.Lesar@nrc.gov).

Sincerely,

*/RA/*

R.W. Borchardt  
Executive Director  
for Operations

Enclosure:  
As stated

Enclosure 1

Letter to Adam McNiece from

R. W. Borchardt Regarding Not Meeting

Acceptance Criteria for a Petition for Rulemaking