

EDO Principal Correspondence Control

FROM: DUE: 06/02/09

EDO CONTROL: G20090281
DOC DT: 04/07/09
FINAL REPLY:

Marvin S. Fertel
Nuclear Energy Institute (NEI)

TO:

Chairman Klein

FOR SIGNATURE OF :

** GRN **

CRC NO: 09-0168

Borchardt, EDO

DESC:

ROUTING:

Final Rulemaking - Power Reactor Security
Requirements (SECY-08-0099) (EDATS: SECY-2009-0238)

Borchardt
Virgilio
Mallett
Ash
Ordaz
Burns/Gray
Burns, OGC
Franovich, OEDO

DATE: 05/12/09

ASSIGNED TO:

CONTACT:

NSIR

Zimmerman

SPECIAL INSTRUCTIONS OR REMARKS:

A draft response is attached for the staff's
consideration in responding. Staff should make
changes to letter as they deem appropriate.

Template: SECY-017

E-RIDS: SECY-01

EDATS

Electronic Document and Action Tracking System

EDATS Number: SECY-2009-0238

Source: SECY

General Information

Assigned To: NSIR

OEDO Due Date: 6/2/2009 5:00 PM

Other Assignees:

SECY Due Date: 6/4/2009 5:00 PM

Subject: Final Rulemaking - Power Reactor Security Requirements (SECY-08-0099)

Description:

CC Routing: OGC

ADAMS Accession Numbers - Incoming: NONE

Response/Package: NONE

Other Information

Cross Reference Number: G20090281, LTR-09-0168,
SECY-08-0099

Staff Initiated: NO

Related Task:

Recurring Item: NO

File Routing: EDATS

Agency Lesson Learned: NO

Roadmap Item: NO

Process Information

Action Type: Letter

Priority: Medium

Sensitivity: None

Signature Level: EDO

Urgency: NO

OEDO Concurrence: NO

OCM Concurrence: NO

OCA Concurrence: NO

Special Instructions: A draft response is attached for the staff's' consideration in responding. Staff should make changes to letter as they deem appropriate.

Document Information

Originator Name: Marvin S. Fertel

Date of Incoming: 5/12/2009

Originating Organization: NEI

Document Received by SECY Date: 5/12/2009

Addressee: Chairman Klein

Date Response Requested by Originator: NONE

Incoming Task Received: Letter

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: May 12, 2009 13:32

PAPER NUMBER: LTR-09-0168 **LOGGING DATE:** 04/21/2009
ACTION OFFICE: EDO

AUTHOR: Marvin Fertel
AFFILIATION: NEI
ADDRESSEE: CHRM Dale Klein
SUBJECT: Final rulemaking - power reactor security requirements (SECY-08-0099)

ACTION: Direct Reply
DISTRIBUTION: Chrm, Comrs, RF

LETTER DATE: 04/07/2009

ACKNOWLEDGED: No
SPECIAL HANDLING:

NOTES: A draft response is attached for the staff's consideration in responding. Staff should make changes to the letter as they deem appropriate.

FILE LOCATION: ADAMS

DATE DUE: 06/04/2009 **DATE SIGNED:**

EDO --G20090281



NUCLEAR ENERGY INSTITUTE

Marvin S. Fertel
PRESIDENT AND CHIEF EXECUTIVE OFFICER
CHIEF NUCLEAR OFFICER

April 7, 2009

The Honorable Dale E. Klein
Chairman
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Final Rulemaking – Power Reactor Security Requirements (SECY 08-0099)

Project Number: 689

Dear Chairman Klein:

The Nuclear Energy Institute (NEI)¹ on behalf of the nuclear power industry appreciated the opportunity to address the Commission on the March 6, 2009, on the power reactor security rulemaking. During the briefing, we acknowledged that this rule can be expedited for new reactor applications. However, for operating reactors, we believe a December 31, 2010, implementation date would be more appropriate as discussed below.

Since September 11, 2001, the NRC has issued seven power plant security orders, including an enhanced design basis threat, issued a number of threat advisories, approved revised security plans, conducted baseline inspections of industry actions taken to protect public health and safety in the event of a large fire or explosion, and implemented a revised force-on-force exercise program. The Industry has fully implemented all of these new requirements and has undertaken numerous activities with the Department of Homeland Security and local law enforcement authorities. As a result we continue to provide high assurance of adequate protection of public health and safety. We have increased staffing of security forces and enhanced force-on-force exercises, training, and overall performance. The Industry has invested in excess of \$2.1 billion in security enhancements

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.

The Honorable Dale E. Klein

April 7, 2009

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since September 11. Our nation's nuclear power plants are recognized as the most protected and secure private industrial facilities.

While the new rule was intended to codify the previously imposed orders and incorporate the new requirements from the Energy Policy Act, as we discussed at the March 6 Commission briefing, implementation of this rule will not be fully understood until the final issuance of the Tier 1 regulatory guides scheduled for May and the Tier 2 regulatory guides scheduled for August of this year. We highlighted that a reasonable timeframe would be necessary to assure effective implementation that will include performing engineering design, purchasing equipment, hiring of new security staff, training, scheduling and installing modifications particularly if any of them require plant outages. The earliest time for outage-related modifications would be spring 2010 but more than likely the fall of 2010 particularly for plants with 24 month operating cycles.

Given the high state of security that currently exists, we respectfully request the Commission consider the cumulative impacts and reevaluate the implementation date for this rulemaking. We request the Commission establish a revised implementation date of December 31, 2010 for operating reactors.

If you have any questions, please contact me at 202.739.8125; msf@nei.org or Alex Marion at 202.739.8080; am@nei.org.

Sincerely,



Marvin S. Fertel

c: The Honorable Gregory B. Jaczko, Commissioner, NRC
The Honorable Peter B. Lyons, Commissioner, NRC
The Honorable Kristine L. Svinicki, Commissioner, NRC
Mr. R. William Borchardt, Executive Director for Operations, NRC
NRC Document Control Desk