

June 26, 2009

MEMORANDUM TO: William F. Burton, Branch Chief
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Division of New Reactor Licensing
Office of New Reactors

FROM: Eric R. Oesterle, Senior Policy Analyst */RA/*
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Office of New Reactors

SUBJECT: SUMMARY OF JUNE 4, 2009, PUBLIC MEETING WITH
INDUSTRY'S NEW PLANT WORKING GROUP ON COMBINED
LICENSE APPLICATIONS

On June 4, 2009, the U.S. Nuclear Regulatory Commission (NRC) staff held a public meeting at the Nuclear Energy Institute (NEI) Office in Washington, DC, with the industry's New Plant Working Group (NPWG) on Combined License Applications (COLAs). The purpose of the meeting was to discuss issues confronting the industry and the NRC regarding the licensing of new reactors. The associated meeting notice is available through the NRC's Agencywide Documents Access and Management System (ADAMS) at Accession No. ML091410552. The following provides a brief summary of the meeting.

Summary

Mr. Eric R. Oesterle, Senior Policy Analyst, Rulemaking and Guidance Development Branch (NRGA), Division of New Reactor Licensing (DNRL), Office of New Reactors (NRO), opened the meeting and announced the following agenda topics for discussion:

1. Schedule sequencing of new reactor application reviews
2. Update on the NRO Directors Issue Resolution Process (NDRP) – "one pager"
3. Seismic shear wave velocity and inspection, test, analysis, and acceptance criteria (ITAAC) for engineered backfill
4. Maintenance of closed ITAAC
5. Quality assurance (QA) inspections of combined license (COL) applicants
6. Assessment process during construction
7. Security plan reviews
8. Model COL

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Discussion Topics:

Schedule sequencing of new reactor application reviews (D. Matthews)

Mr. David B. Matthews, Director (NRO/DNRL) indicated that new goals for the NRO are focused on supporting the reviews for new reactors expecting to operate in calendar years 2016-2017 (see Enclosure 2). These goals were communicated by the NRC to Congress in the semi-annual report as presented by Chairman Jazcko. The meeting attendees were also referred to a June 3rd article in Energy Daily, which Mr. Matthews characterized as reflecting the clearest alignment to date of the Congress, NRC, U.S. Department of Energy (DOE) loan guarantees, and industry on new reactor goals. With respect to budget issues, Mr. Matthews identified that the fiscal year (FY) 2010 budget for NRO accounts for 25% of the total NRC budget. The NRC FY2011 budget remains constant and, as a result, allocation of the NRO budget will be balanced between licensing, construction inspection, and advanced reactor activities. The NRC budget may, in the future, likely only impact those applicants that have not submitted COLAs for acceptance and review. Those few applicants that are changing reactor technologies will definitely see schedule sequencing impacts. In response to a question regarding impacts to S-COLs already under review, Mr. Matthews indicated that a small subset of S-COLs might be impacted, particularly, those S-COLs with no plans for construction immediately following licensing. Mr. Matthews added that COL schedule extensions are typically the result of factors outside the NRC's control and not usually caused by limitations of NRC resources. In response to an observation that perceptions of official NRC statements confirming that it has the necessary resources and infrastructure to meet new reactor needs are optimistic, Mr. Matthews indicated that official NRC statements are always limited to the context of budgetary information submitted to Congress and the White House. Mr. Matthews added that allocations from Congress don't always translate to additional personnel and NRC personnel are not universally interchangeable; therefore, resource limitations may have impacts on S-COLs that follow the R-COLs. Mr. Matthews concluded by emphasizing that as a result of the new NRO project goals, new reactor applicants are not ranked for review priority but rather schedule sequencing of applications is based on a grouping of applicants into four categories.

Update on NRO NDIRP – “one pager” (D. Matthews)

Mr. David B. Matthews, Director (NRO/DNRL) commented that after internal NRC deliberation it was decided that the improvements and refinements to existing processes was the approach preferred over continuation of the “one-pager” process. Mr. Matthews elaborated on the reasoning behind the NRC decision by offering the following points:

- One-pager process was used for only a handful of issues and with limited effectiveness
- Based on feedback at previous NPWG meetings, the NRC staff engaged in an effort to develop more specific details/protocols for the “one-pager” process (i.e., entry conditions, internal and external interactions, resolution process, concurrence, communication and documentation)
- In parallel, the NRC staff used the “one-pager” process and the philosophy behind it as a springboard to examine its internal processes and to implement changes

- This examination determined that the NRC staff had already embarked upon improving already existing processes to address areas that the “one-pager” process attempted to address as a fix and without adding additional processes & procedures
 - Better define internal roles & responsibilities
 - Risk-management process
 - Focus on improved communications (internal & external)
 - Trigger points/flags for raising issues

In summary, the “one-pager” process has been overtaken by improvements in internal processes and communication initiatives. The absence of this process should not preclude applicants from communicating with NRC division-level management and that applicants could expect NRC division-level management to initiate some of this communication. NEI commented that they believed the “one-pager” process to be effective and is not discouraging continuing efforts to improve communications. Mr. Matthews offered that direct communications could still be supplemented with emails and concise documentation, as necessary, and that, consistent with NRC management philosophy to drive down ownership of issues, the project Branch Chiefs should be the entry level for these communications. It was also recognized that if the issue is not already familiar to the division management, the process is not working as intended.

Seismic shear wave velocity and ITAAC for engineered backfill (N. Chokshi)

Mr. Nilesh C. Chokshi, Deputy Director of the Division of Site and Environmental Reviews (NRO/DSER), summarized that there are two issues associated with seismic shear wave velocity and ITAAC for engineered backfill: compaction and shear wave velocity. Mr. Chokshi indicated that these two technical issues are well understood and that the challenge is to ensure development and agreement on appropriate ITAAC wording for verification of these properties. A public meeting was previously held on May 8, 2009, to discuss seismic shear wave velocity and ITAAC for engineered backfill (ADAMS Accession No. ML091590465). Following that meeting, NEI submitted a letter to the NRC to summarize their understanding of the meeting discussions and to propose wording for the ITAAC (ADAMS Accession Nos. ML091590420 and ML091590429). Mr. Chokshi indicated that the NRC was in receipt of the NEI letter and it is being reviewed by the NRC staff. An NRC response to the NEI letter is being developed separately from the NRC meeting summary for the May 8, 2009 meeting. Mr. Chokshi shared his plan to schedule a conference call, prior to issuance of the NRC response to the NEI letter, to discuss the resolutions for the seismic shear wave velocity and ITAAC for engineered backfill in approximately 2–3 weeks.

Maintenance of closed ITAAC (G. Tracy)

Mr. Glenn M. Tracy, Director of the Division of Construction Inspection and Operational Programs (NRO/DCIP), provided an update and status of NRC staff and industry efforts on the issue of maintenance of closed ITAAC. After approximately two and a half years of considerable and sustained joint effort, a guidance document (NEI-08-01) has been developed on ITAAC closeout and maintenance, and a draft regulatory guide (RG) that endorses the NEI-08-01 guidance has been approved and will be finalized as RG 1.215. Mr. Tracy indicated that the next step was to develop a policy paper for Commission approval and cautioned that the policy

approved by the Commission could result in changes to RG 1.215 and NEI-08-01. Mr. Tracy summarized that the focus of NEI-08-01 and the on-going meetings regarding maintenance of closed ITAAC have been on the following three issues:

- Sufficient information necessary to close-out ITAAC
- Threshold for licensee notification of impacts to closed out ITAAC
- Definition of "ITAAC are met"

Mr. Tracy indicated that a public meeting has been scheduled for June 11, 2009, to continue discussions on maintenance of closed ITAAC. In addition, he noted that at the previous ITAAC maintenance meeting, NEI provided attributes of programs that licensees plan to rely on for maintaining closed ITAAC and that the NRC will expect to review those programs on site and inspect their implementation. In response to comments regarding the potential use of existing programs that include technical specification operability determinations for ITAAC maintenance, it was noted that operability determinations are not the same as a determination that the facility has been constructed and will operate in accordance with the license, etc., as required by the regulations invoking ITAAC. With respect to reporting thresholds, Mr. Tracy commented that changes in the bases for the licensee's ITAAC closure letters need to be reflected in the public record and that the threshold should not be limited to changes in the "letter of the ITAAC closure letters." Mr. Tracy indicated that the NRC is pursuing proposed rulemaking on notification requirements, which has garnered some interest on the part of the Commission, and that the plan is to include these requirements into an upcoming supplement to Title 10 of the *Code of Federal Regulations*, Part 52 (10 CFR 52). In response to comments regarding specific aspects of ITAAC closeout and maintenance and American Society of Mechanical Engineers (ASME) Code requirements, Mr. Tracy responded that discussion on transitioning from ASME Code Section III to Section XI requirements would be included on the June 11, 2009, meeting agenda. Mr. Tracy concluded by announcing that NRC expectations are that the programs the licensee intends to rely on to ensure maintenance of closed ITAAC need to be in place and be inspected by the NRC prior to submittal of any ITAAC closure letters. In response to a question regarding NRC inspections of these programs, Mr. Tracy informed that these inspections would be built into the Region II inspection plans and that the scope of IMC-2504 would be revised to include inspections during construction of the programs relied upon by the licensees to ensure maintenance of closed ITAAC.

QA Inspections of COL Applicants (G. Tracy)

Mr. Glenn M. Tracy, Director (NRO/DCIP) identified that QA inspections for three COL applicants have been performed with one inspection currently in progress (SCE&G COL application for Virgil C. Summer). The focus of these inspections is on implementation of QA requirements by the COL applicant. Mr. Tracy noted that these inspections are not related to construction inspections. A question was raised regarding the threshold for findings from these inspections since it was believed that the NRC inspections were not governed by the Reactor Oversight Process or by the Construction Assessment Process. In addition, there was a question as to whether it was more appropriate to characterize these NRC activities as audits rather than inspections. Mr. Tracy responded that these types of inspections were somewhat new for the NRC staff but that they are following current processes to ensure licensing requirements are being met. In addition, Mr. Tracy noted that the "minor" threshold was not being used in these cases and that Level 4 violations were the appropriate characterization of the findings. Lastly,

Mr. Tracy offered that the NRC would look into the issue of “audit” versus “inspection” but that the NRC is currently going with the “inspection” characterization. Mr. Tracy emphasized that the documentation of the inspections are important to the NRC’s decision making with respect to their safety evaluation report (SER) conclusions as it relates to QA programs. In response to a question on whether the NRC plans to perform one inspection per COL applicant, Mr. Tracy indicated that the number of these types of inspections may vary based on the activities being conducted by the COL applicant, but it is expected that the NRC would conduct one inspection of each applicant. NEI offered the opinion that the inspection results may be difficult to differentiate among COL preparation activities, COL reviews, vendor inspections, and constructions; however, NEI pointed out that although it has no objection to NRC performing these inspections it is concerned over the perception that may be created by how the NRC describes, characterizes and classifies the inspection findings. NEI also added that the audit process is more typical for these types of activities and that audit findings result in requests for additional information that the applicants must respond to rather than inspection findings. Mr. Tracy concluded by pointing out that the regulatory requirements of Appendix B (to 10 CFR Part 50) are imposed when parties become “applicants”; therefore, the purpose of the inspection is for the NRC to verify compliance with the regulatory requirements and to provide its conclusions in an SER. Mr. Tracy commented that his view is that the NRC is being conservative as the regulator of these activities.

Assessment process during construction (G. Tracy)

Mr. Glenn M. Tracy, Director (NRO/DCIP) briefly summarized that the construction assessment process is different than that used for operating assessments. One area that is key is during the transition period from construction to operation when construction testing, pre-operational testing, startup testing, etc. is taking place. NEI commented that they did not believe that performance indicators were feasible and preferred the concept of cornerstones. With that introduction, NEI identified that the industry had developed a concept for construction oversight (see Enclosure 3, ADAMS Accession No. ML091760537) and are preparing a program description to be completed by the end of June 2009. NEI requested a separate public meeting to discuss this conceptual process and commented that safety culture should be supportive of strategic performance areas and not lead the process as the primary means for achieving the NRC’s overall safety mission. Mr. Tracy responded by noting that 14 public workshops have been held over the past two years on the construction assessment program and that the timing of the industry-proposed concept is disconcerting and does not align with the existing NRC schedule.

Security Plan reviews (M. Shuaibi)

Mr. Mohammed A. Shuaibi, Acting Deputy Director for Reactor Security in the Division of Security Policy, Office of Nuclear Security and Incident Response, provided a brief update of security reviews indicating that a cyber security review schedule (specific to Vogtle) has been developed, that security plan submittals are expected to be consistent with approved templates and dialogue that has been ongoing between the NRC and industry, and that NRC reviews are expected to begin in August 2009.

Model Combined License (E. Oesterle)

Mr. Eric R. Oesterle, Senior Policy Analyst (NRO/DNRL/NRGA) provided an update on NRC development of a model COL indicating that a model COL was initially approved by the Commission in SRM-SECY-00-0092 and that updates to this model COL were discussed at several public meetings this year. These included meetings on January 14, 2009 (ADAMS Accession No. ML090230283), April 8, 2009 (ADAMS Accession No. ML091240590), and May 13, 2009 (ADAMS Accession No. ML091380482). Mr. Oesterle indicated that the NRC will be working on a policy paper proposing an updated model COL to send to the Commission this year for approval. Mr. Oesterle also confirmed that the NRC has received comments from NEI on the proposed updated model COL (ML091671098), and will consider these comments and include further discussions on the model COL in the agendas for future public meetings.

Industry Identified Issues

Members of the NPWG raised issues particular to the above topics throughout the discussions on those topics.

Enclosures:

1. Attendance List
2. The NRC New Reactor Program: A PATH FORWARD
3. Draft Industry Concept: Construction Oversight Program

cc w/encl: See next page

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**PUBLIC MEETING WITH INDUSTRY'S
NEW PLANT WORKING GROUP
ON COMBINED LICENSE APPLICATIONS**

June 4, 2009

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| Mark McBurnett | STPNOC |
| Martin Gettler | FPL |
| Brian Reilly | Bechtel |
| Kenneth Hughey | Entergy |
| Patricia Campbell | GE-Hitachi |
| Ken Ainger | Exelon |
| Bryan Dolan | Duke |
| Garry Miller | Progress |
| Andy Campbell | NRC |
| Robert Schrauder | Toshiba/TANE |
| Jean-Pierre Berger | EDF |
| William "Butch" Burton | NRC |
| Nilesh Chokshi | NRC |
| Anne Cottingham | NEI |
| Doug Walters | NEI |
| Russell Bell | NEI |
| Charles Pierce | Southern Nuclear |
| Paul Bessette | Morgan Lewis |
| Joe Mihalcik | Unistar |
| Juan Peralta | NRC |
| Mark Kowal | NRC |
| John Tappert | NRC |
| Tony Pietrangelo | NEI |
| Frank Gillespie | Mitsubishi (MNES) |
| Glenn Tracy | NRC |
| David B. Matthews | NRC |
| Joelle Starefos | NRC |
| Francis Akstulewicz | NRC |
| Charles Ader | NRC |
| Eric Oesterle | NRC |
| Marilyn Kray | Exelon |
| Alan Torres | SCE&G |
| Don Woodlan | Luminant |
| Jim Winters | Westinghouse |
| Ed Hubner | Shaw Group |
| John Nakoski | NRC |
| Loyd Wright | SCE |
| Brian McIntyre | AREVA |

| | |
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| Eugene Grecheck | Dominion |
| Dan Shulman | Enercon |
| Elaine Hiruo | Platts |
| John Mulligan | URS |
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(Revised 04/16/2009)

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