



NUCLEAR ENERGY INSTITUTE

Anthony R. Pietrangelo
 SENIOR VICE PRESIDENT
 AND CHIEF NUCLEAR OFFICER

September 25, 2009

The Honorable Gregory B. Jaczko
 Chairman
 U.S. Nuclear Regulatory Commission
 Washington, DC 20555-0001

DOCKETED
 USNRC

October 2, 2009 (8:19am)

OFFICE OF SECRETARY
 RULEMAKINGS AND
 ADJUDICATIONS STAFF

Subject: Expedited Rulemaking – Part 73 Implementation Schedule

Project Number: 689

Dear Chairman Jaczko:

In our letter dated April 7, 2009 (attached), NEI requested a December 31, 2010 implementation date for the revised Part 73 power reactor security requirements. The NRC response letter dated June 4, 2009 (attached) denied our request, citing the need for more detailed information that provides a compelling argument for revisiting the March 31, 2010 compliance date. The purpose of this letter is to request an expedited rulemaking to change the implementation date for specific requirements of 10 CFR Part 73 to December 31, 2010 based on the results of an industry survey conducted by NEI. We believe this new information provides a sound basis for our request.

The industry survey results indicated that 24 sites will seek exemption requests from the March 31, 2010 implementation date for specific requirements in Part 73. There are 9 sites that are evaluating the need for a similar exemption, and there are 31 sites that have determined that they will not seek an exemption at this time. The results also indicated that two provisions of the regulations, namely 10 CFR 73.55 (e) Physical Barriers and 73.55 (i) Detection and Assessment Systems, will be the subjects of nearly all of the exemption requests for schedule relief. This is primarily because these provisions may require physical modifications to the plant involving engineering analysis, design, purchasing equipment, installing modifications, testing and related training. It is expected that these exemption requests will be filed by licensees within the next 60 days.

Absent a rule change to modify the implementation date to December 31, 2010 for 10 CFR 73.55 (e) and (i), we are concerned over the vast diversion of industry and NRC resources to review and approve exemption requests for potentially more than half of the existing sites. These are the same

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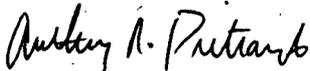
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resources needed to finalize the remaining regulatory guidance for implementation of the revised Part 73. We strongly believe that a simple, straightforward rulemaking conducted on an expedited basis would obviate the need for this diversion of resources, and lead to more effective implementation of the revised Part 73 requirements.

As we noted last April, the nuclear energy industry has fully implemented numerous new provisions and enhancements since the terrorist attacks of September 11, 2001, including NRC orders, an enhanced design basis threat, and numerous threat advisories. In addition, the NRC has conducted baseline inspections of industry actions to address large fires and explosions and has evaluated force-on-force exercises for the past seven years. The industry has also been proactive in many initiatives undertaken in conjunction with the Department of Homeland Security, the Federal Bureau of Investigation, and local law enforcement authorities that further strengthen the protection of not only nuclear energy plants, but of the entire critical infrastructure in the United States. These activities have resulted in our nation's nuclear energy plants being recognized as the most protected and secure private industrial facilities.

Given the impending March 31, 2010 implementation deadline for Part 73, we appreciate the Commission's timely consideration of our request. We would welcome the opportunity to further discuss the detailed information supporting the request. If you have any questions, please contact me or Alex Marion.

Sincerely,



Anthony R. Pietrangelo

Attachments

c: Commissioner Dale Klein, U.S. Nuclear Regulatory Commission
Commissioner Kristine Svinicki, U.S. Nuclear Regulatory Commission
Mr. R. William Borchardt, U.S. Nuclear Regulatory Commission
Mr. Bruce Mallet, U.S. Nuclear Regulatory Commission
Mr. Eric Leeds, U.S. Nuclear Regulatory Commission
Mr. Roy P. Zimmerman, U.S. Nuclear Regulatory Commission
NRC Document Control Desk



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



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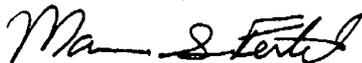
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The Honorable Peter B. Lyons, Commissioner, NRC
The Honorable Kristine L. Svinicki, Commissioner, NRC
Mr. R. William Borchardt, Executive Director for Operations, NRC
NRC Document Control Desk

June 4, 2009

Mr. Marvin S. Fertel, President
Nuclear Energy Institute
1776 I Street N.W., Suite 400
Washington, D.C. 20006

Dear Mr. Fertel:

On behalf of the Nuclear Regulatory Commission (NRC), I am responding to your letter dated April 7, 2009, regarding the Power Reactor Security Requirements Final Rule, which was published in the Federal Register (Vol. 74, No. 58, page 13926) on Friday, March 27, 2009. Although the rule became effective on May 26, 2009, each currently-operating reactor licensee will have until March 31, 2010, to incorporate security plan changes that are needed to comply with the amended requirements of the rule. Your letter requests that the NRC establish a revised implementation date of December 31, 2010.

The industry has already implemented many of the security requirements in the Final Rule since they are similar to those previously imposed by Commission Orders. In addition, the Commission has determined that the implementation period in the Final Rule provides sufficient time for operating reactors to implement any new requirements. Your letter mentions the March 6, 2009, Commission meeting during which the NRC staff stated that there are eight regulatory guides, which are not yet published, but are key to licensee implementation of the rule. All of the regulatory guides were originally issued in draft form in August 2008. Since that time, the staff has held over 30 stakeholder meetings on the eight key regulatory guides. During the stakeholder meetings, the industry obtained a detailed understanding of what security-related upgrades and implementation methods the staff considers acceptable to meet the new requirements. Although the issuance of the final regulatory guides is not yet complete, the Commission lacks sufficient information to conclude that a blanket extension to the Final Rule compliance date is warranted.

Neither the discussions during the March 6, 2009, Commission meeting nor your letter provides an adequate basis to indicate the existence of an industry-wide problem with meeting the March 31, 2010, compliance date. However, if there is detailed information that exists which would provide a compelling argument for revisiting the compliance date, please provide this as soon as possible to Roy Zimmerman of the Office of Nuclear Security and Incident Response so that it can be considered. Please note that the Commission's existing regulations provide several mechanisms for licensees with good cause to apply for relief from the compliance date for any part of this rule or other Commission regulation.

Sincerely,

/RA Bruce S. Mallett for/

R. W. Borchardt
Executive Director
for Operations

June 4, 2009

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Nuclear Energy Institute
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R. W. Borchardt
Executive Director
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