

March 22, 2010

MEMORANDUM TO: William F. Burton, Chief
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FROM: R. Frederick Schofer, Project Manager */RA/*
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SUBJECT: SUMMARY OF FEBRUARY 23, 2010, PUBLIC MEETING WITH
INDUSTRY'S NEW PLANT WORKING GROUP ON COMBINED
LICENSE APPLICATIONS

On February 23, 2010, the U.S. Nuclear Regulatory Commission (NRC) staff held a public meeting at the Nuclear Energy Institute (NEI) Office in Washington, D.C., 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 Agencywide Documents Access and Management System (ADAMS) at Accession Number ML100330867. The following provides a brief summary of the meeting.

Summary

Mr. R. Frederick Schofer, Rulemaking and Guidance Development Branch (NRGA), Division of New Reactor Licensing (DNRL), Office of New Reactors (NRO), opened the meeting and announced that the NRC was prepared to address the following topics and respond to industry questions and concerns raised during these discussions and any additional industry topics that may have been raised during internal industry discussions of the NPWG:

1. Update status and schedules for new reactor application reviews
2. Licensing basis information freeze point implementation (DC/COL-ISG-11)
3. Corrective action processes for new nuclear power plants (NPP) during construction, NEI-08-02
4. Updates on Construction Inspection Assessment Process (CIAP) and Design Acceptance Criteria (DAC) Resolution Working Group
5. NRC participation at future NPWG meetings held outside the D.C. metropolitan area
6. Access authorization and physical security during nuclear power plant construction proposed rulemaking update
7. Small modular reactor plans update

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Discussion Topics:

Updates status and schedules for new reactor application reviews (D. Matthews)

Mr. David B. Matthews, Director of DNRL, stated that the NRC is looking forward to processes that must be defined post-COL issuance. Mr. Matthews provided his perspective that Title 10 of the *Code of Federal Regulations* (10 CFR) Part 52 has not been tested through the completion of construction, the 10 CFR 52.103(g) finding, and commencement of operation of a Nuclear Power Plant (NPP). As licensees move into the construction phase, it is anticipated that they will face new issues and challenges. The NRC looks forward to this group to continue to play a critical role in the defining and resolution of these post-COL issues.

Mr. Matthews also provided a presentation on licensing and construction of reactors in the U.S. (see enclosure) that is follow-on to an NRC presentation provided in February 2010, at the Platts conference. He referred to the first slide to emphasize that there are 13 COL applications under review referencing five different large light-water-reactor (LWR) designs. Three of the referenced designs (ESBWR, USAPWR, and EPR) are in the process of being reviewed for original design certification (DC). The remaining two designs (AP-1000 and ABWR), which were previously certified, are in the process of being amended. These design certifications must be certified by rule before the associated COLs can be issued. Mr. Matthews also shared that the NRC currently expects two early site permit (ESP) applications to be submitted during fiscal year (FY) 2010 with no designation of chosen technology. The NRC does not expect any additional COL applications to be submitted until FY 2012. Although a second wave of commercial NPPs has not materialized, the licensing and construction of these new COL plants may become the impetus for new COL applications. The four COL applications that were down-selected by the Department of Energy (DOE) for possible loan guarantees are among those under active NRC review. He then referred to Slide 6, "Communication," in this presentation to emphasize the importance of industry communication in NRC planning and budgeting. Mr. Matthews stated that the NRC recently issued Regulatory Issues Summary (RIS) 2010-01, "Process for Scheduling Acceptance Reviews of New Reactor Licensing Applications for FY 2012," which requests that applicants and potential applicants voluntarily submit information to the NRC on their future plans for submittal of new reactor licensing applications or permits, amendments, topical reports, application revisions, construction activities, operator training, and pre-construction activities including construction plans and schedules for fabrication of modules and large components submittals. The information submitted in response to RIS 2010-01 will assist the NRC in assessing staffing and resource allocations for FY 2012 budget development purposes. Additional information on RIS 2010-01 may be found at ADAMS Accession No. ML093230517. Mr. Matthews said the RIS is intended to promote early communication between the NRC and licensees about potential 10 CFR Part 52 licensing actions, related licensing activities submission dates, and plans for construction activities. He further stated that the NRC is already reviewing topical reports to support future licensing amendments and is planning for construction inspection activities to ensure resources are available in Division of Construction Inspection and Operation Programs (DCIP) and in Region II.

In response to a question regarding whether the RIS is addressed to large design suppliers, Mr. Matthews clarified that RIS 2010-01 is sent to holders of, and applicants for, an ESP limited work authorization (LWA), standard DC, or COL for construction and operation of a NPP. Large

equipment suppliers are tied to their relationship to the licensee and/or applicant. Mr. Glenn Tracy, Director of DCIP, added that notification is essential to the planning effort as the agency want to be in a position to oversee licensee fabrication and construction activities that are underway.

Licensing basis information freeze point implementation, DC/COL-ISG-11 (D. Matthews)

Mr. Matthews summarized the purpose of this interim staff guidance (ISG) document is to clarify the staff position regarding applicants finalizing licensing-basis information at a point during the licensing review, a.k.a. a freeze point, and the control of licensing-basis information during and following the initial review of applications for DCs or COLs. He acknowledged that industry was starting to develop questions in this area and recognized NEI's possible role in working to address the applicant's need to rely on its configuration management programs to evaluate, track and report (as appropriate) those changes identified after the licensing-basis freeze point. Mr. Matthews emphasized that licensees must remain mindful of the consequences if major design issues are reported after the Advisory Committee on Reactor Safeguards (ACRS) letter is issued, and that never before has the industry had a design approved which is supported by rule with its own change process. Mr. Russell J. Bell (NEI) added that the NPWG is wrestling with these issues and is working to understand how applicants are currently addressing these issues. Mr. Bell suggested that this topic should be on the agenda for a future NPWG meeting.

Corrective action processes for new NPP during construction, NEI-08-02 (G. Tracy)

Mr. Glenn Tracy, Director of DCIP, provided an update and status of NRC staff and industry efforts on the issue of corrective action processes for new NPPs during construction. Mr. Tracy stated that the staff has been working through the issues in numerous public meetings. He indicated that through these public forums, numerous questions have been raised and answered. Mr. Tracy also acknowledged the considerable and sustained effort by NEI to develop a guidance document (NEI 08-02) on corrective action process for new nuclear plants during construction. NEI 08-02, Revision 3 (ADAMS Accession No. ML100540894), was recently sent to the NRC on February 19, 2010, which further clarified the work processes at the site level. He added that he looks forward to reviewing this document and communicating the staff's views to its stakeholders. In response to a comment that industry is embarking on construction processes that there is a need for a corrective action process as soon as possible, Mr. Tracy stated that the staff will provide its views upon the completion of the ongoing evaluation by the affected NRC offices. Discussions in public meetings have involved the industry's development and documentation of its plans and details for licensees' integration of all contractor corrective action programs across the construction site. Given the issues that were described in NUREG-1055 during historical reactor construction, implementing this new industry guidance and assessing its effectiveness at a reactor construction site is considered an important aspect of any future NRC endorsement in a regulatory guide.

Updates on Construction Reactor Oversight Process and DAC Resolution Working Group (G. Tracy)

Mr. Tracy stated that the NRC construction reactor oversight process (cROP) working group consists of a multi-office team formed to develop construction assessment program options. The NRC staff working group is led by Tim Frye (NRO) and meets routinely with NEI's cROP Task Force led by Tom Houghton and other stakeholders, at scheduled public meetings to

develop the appropriate regulatory framework issues such as strategic performance areas, cornerstones, and cross cutting issues. The first meeting with the NEI working group was held in December 2009 (ADAMS Accession No. ML093640781), with a subsequent meeting in early January 2010 (ADAMS Accession No. ML100130363). The next meeting is scheduled for March 2010 (ADAMS Accession No. ML100220919). Their work is focusing on the development of a Commission paper and discussing the subject at a future Commission meeting by the end of 2010.

Mr. Tracy informed the meeting attendees that NRC's DAC Resolution Working Group is developing procedures for NRC's oversight of licensees' resolution of DAC, which currently encompasses the areas of digital instrumentation and control (I&C), human factors engineering, and piping, with an emphasis on digital I&C as the first area of focus. He stated that the group is developing the methodology, inspection framework, and tools necessary to confirm the design meets the acceptance criteria. In responding to a question whether there will be pilot DAC inspections for the piping area, as those envisioned for digital I&C, Mr. Tracy responded that piping DAC are not considered as complex at this time, due to the existing codes and standards and their historical use in construction. In a follow-up question, Mr. Tracy was asked whether the developing DAC oversight strategy documents would be shared publically. Mr. Tracy responded that he would take that question back to his staff and noted that these strategy documents are currently envisioned to be at level lower than inspection procedures, which are routinely publically available.

In response to a question whether Southern Nuclear will be assessed using the current version of the Inspection Manual Chapter (IMC) 2505 (ADAMS Accession No. ML082480602), or if it will be a future pilot of a new construction assessment process. Mr. Tracy replied that this still needs to be determined, and that any decision would consider stakeholder views on the matter.

NRC participation at future NPWG meetings held outside the D.C. metropolitan area
(D. Matthews)

Mr. Matthews stated that the agency will continue to meet its commitment to support the NPWG meetings to address issues of substance and is open to regardless of location. NRC participation requires that the meeting be public and that Fred Schofer, NRO/DNRL will be the agency's point of contact for arranging NRC participation.

Access authorization and physical security during NPP construction proposed rulemaking update

Mr. Fred Schofer provided an update of the proposed rulemaking project for access authorization and physical security during NPP construction. Mr. Schofer indicated that the staff is preparing draft rule language and plans to release this draft language prior to a late March 2010 public workshop. He further stated that the proposed rule would add a new section, 10 CFR 73.52, to the CFR. Mr. Schofer indicated that the proposed rule package will be submitted to the Commission for review by August 23, 2010, and the proposed rule will be published in the *Federal Register* following Commission and the Office of Management and Budget (OMB) review.

Small modular reactor plans update (S. Magruder)

Mr. Stewart Magruder, the Branch Chief of the Advanced Reactor Branch 2 (ARB-2) in the Advanced Reactor Program (ARP) of NRO, provided an update on the status and progress of the advanced reactor program and discussed some of the issues the industry faces. He anticipates that 10 CFR Part 52 will be the overall process for licensing these small modular reactors (SMRs). He described SMR designs as typically no larger than 300 MW in capacity and included numerous technologies, such as pressurized water reactors, high temperature gas-cooled reactors, and liquid metal fast reactors among others. ARP is divided into two branches, ARB-1, which focuses on gas-cooled reactors and liquid metal fast reactors, and ARB-2, which focuses on pressurized water SMRs. Congress has indicated an interest in pursuing advanced reactor technology as evidenced by a Senate committee hearing in December 2009 and the introduction of several proposed bills in the Senate. The Commission increased funding for the advanced reactor program by 10 full-time employees (FTEs) and \$3 million for FY 2010 bringing the program funding to about \$6 million and 23 FTEs. The FY11 budget proposal is for a slight increase in funding.

Some of the policy and technical issues that are expected to arise during licensing review of SMRs is the review of source terms for these reactors. Although some of the light water SMRs propose to use a shorter version of the 17x17 fuel bundle which is similar to the existing fleet of plants, the fuel for high-temperature gas cooled reactors or liquid metal fast reactors will require additional work to decide on the correct approach. The NRC will also need to address questions related to the siting of the SMRs. Mr. Magruder stated that because some of these SMRs are likely to be sited to replace aging coal plants or located near industrial facilities, SMRs raise issues related to emergency preparedness for those sites. NRC fee structures and liability issues will also require consideration. Small and advanced reactors will be discussed at a March 5, 2010, ACRS briefing on new advanced reactor designs.

The ARP looks forward to working with NEI, American Nuclear Society, Electric Power Research Institute (EPRI) and other interested parties in working through these and other issues. Mr. Russell Bell stated that NEI is interested in organizing the SMR suppliers into a task force and reporting in through the NPWG. Of course, the NPWG is a service to members and may not represent the whole amalgamation of possible suppliers. Further, Mr. Bell stated that once the NRC receives a public commitment of intent from an SMR supplier, the NPWG would like to include that organization in their membership.

Mr. Magruder mentioned that at the upcoming Regulatory Information Conference (RIC) on March 9–11, 2010, there will be 3 SMR sessions and that there is also an April 6, 2010 Commissioners meeting.

Industry identified issues

Members of the NPWG inquired about the latest NRC thinking on the transition of NRC oversight from NRO to the Office of Nuclear Reactor Regulation (NRR). Mr. Matthews indicated that at this time, NRO will sustain responsibility for licensing and oversight through the issuance of the 10 CFR 52.103(g) finding. He added that the NRC is examining how this transition may take place in the future as a policy issue and includes interactions with NRC Region II and future host regions. Furthermore NRC is having internal discussion on how the agency should organize itself and the challenges of oversight of licensing related changes. These policy and

process issues are distant and will include input from external stakeholders. Mr. Russell Bell asked for an update regarding questions raised on the environmental protection plan (EPP). Mr. Schofer responded that the agency is finalizing their response and will issue a letter within the next few weeks.

Mr. Bell also commented that he had hoped that the draft rule language on inspections, test analyses, and acceptance criteria (ITAAC) maintenance would have been issued before this meeting so that the NPWG members could have provided feedback before the March 5, 2010, workshop. Mr. Matthews replied that the preliminary draft rule language will be posted within days. He stated that both he and Mr. Gary Holahan have been briefed and the staff must brief Mr. Michael Johnson before the rule text may be posted. Mr. Matthews commented that there is also a DC template public meeting scheduled for March 4, 2010. Mr. Matthews elaborated that this approach was arrived at in the 1990's, but you should expect to see some refinements in the approach and the documentation. These templates will be posted in advance of the meeting. The intent of this approach is to ensure that, upon staff's completion of the safety evaluation for a DC, the staff is able to move into the rulemaking process as quickly as possible using these tools.

Lastly, Mr. Matthews reminded everyone of the New Reactors sessions at the upcoming NRC RIC being held from March 9-11, 2010.

Enclosures:

1. Attendance List
2. Platts Conference, February 19, 2010: Breakout Session Four Presentation Slides, "Licensing and Construction of Reactors in the U.S."

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

February 23, 2010

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Glenn Tracy	NRC
Stu Magruder	NRC
Charles Ader	NRC
Russ Bell	NEI
Steve Byrne	SCANA
Dan Breig	SCE
Eugene Grecheck	Dominion
Dave Harwood	DTE
Marilyn Kray	Exelon
Ed Cummins	Westinghouse
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Kimberly Keithline	NEI
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Ken Barry	EPRI
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Charles Pierce	Southern Nuclear
Bryan Dolan	Duke Energy
Bob Schrauder	Toshiba America Nuclear
Mark McBurnett	STPNOC
Doug Walters	NEI
James Fiskaro	NEI
Stephen Burdick	Morgan Lewis
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(Revised 03/11/2010)

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