

April 22, 2010

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

FROM: Richard F. Schofer, Project Manager */RA/*
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Office of New Reactors

SUBJECT: SUMMARY OF MARCH 31, 2010, WORKSHOP TO DISCUSS DRAFT
PROPOSED RULE TEXT FOR PROPOSED RULEMAKING ON
REQUIREMENTS FOR ACCESS AUTHORIZATION AND PHYSICAL
SECURITY DURING NUCLEAR POWER PLANT CONSTRUCTION

On March 31, 2010, the U.S. Nuclear Regulatory Commission (NRC) staff held a Category 3 public meeting at the NRC Headquarters in Rockville, Maryland to discuss draft proposed rule text for proposed rulemaking on the requirements for access authorization and physical security during nuclear power plant (NPP) construction. The meeting notice agenda, draft rule text, and presentation slides were available prior to the workshop in the Agencywide Documents and Management System (ADAMS) under Accession Number ML100830327.

The NRC staff began by proceeding with a discussion, question and answer session on the draft proposed rule objectives, proposed rule applicability, and key submittals. The staff explained that they believe that this proposed rulemaking would enhance security at NPP construction sites by providing mechanisms to detect and deter malicious acts during construction and these measures would provide assurance that subversive activities could not directly or indirectly result in radiological sabotage after the facility goes into operation. The proposed measures would prevent the introduction of firearms, explosives, or incendiary devices that could later be used to commit a malicious act. The staff also explained that it believes that the proposed rule can be justified as a substantial security enhancement, and that the costs can be justified in this light. The staff further stated that this rule strikes a balance between the supplemental protection measures proposed and the costs necessary to implement them. This draft proposed rule achieves this balance by phasing in requirements intended to provide a sufficient deterrent and the capability for the licensee to detect, assess, and respond to malicious acts during construction. The NRC staff then provided an overview of the four phases described in the draft proposed rule by describing the security objective of each phase, the construction milestone that defines the initiation of the phase, and the security measures considered necessary at that point of construction to achieve the security objective. Upon completing the overview of the draft proposed rule, the staff described the plan to publish a draft regulatory guide for public comment at the time that the proposed rule is published.

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The NRC staff then proceeded with a section-by-section discussion, question, and answer session on the draft proposed rule text that would amend requirements in §§ 50.34, 50.54, 52.79, 73.1, 73.21, 73.22, 73.52, and 73.58 of Title 10 of the Code of *Federal Regulations* (10 CFR) related to access authorization and physical security for NPP construction activities under a construction permit or a combined license. During this public exchange, the staff received numerous observations and views regarding detailed rule language and the path forward. During this process, the staff was told that most successful regulations are those that are performance-based – which set the objectives and goals and leave to the licensee the details for their implementation. Examples cited include the Maintenance Rule, License Renewal, and Risk Based Regulation such as 10 CFR 50.54(hh) and the Aircraft Impact Rule. Other general observations received included the level of detail and complexity of the proposed rule and the adverse cost and schedule impact on new NPP construction. Several meeting attendees agreed that a rule is needed and provided several suggestions with respect to what the focus and extent of the rule should be. The remainder of the feedback generally pertained to the proposed revisions to Title 10 of the CFR Section 73.52, and will inform the staff during additional development of the draft proposed rule.

A list of attendees is provided in Enclosure 1.

Enclosures:
As stated

cc w/encl: See next page

CFR) related to access authorization and physical security for nuclear power plant construction activities under a construction permit or a combined license. During this public exchange, the staff received numerous observations and views regarding detailed rule language and the path forward. During this process, the staff was told that most successful regulations are those that are performance-based – which set the objectives and goals and leave to the licensee the details for their implementation. Examples cited include the Maintenance Rule, License Renewal, and Risk Based Regulation such as 10 CFR 50.54(hh) and the Aircraft Impact Rule. Other general observations received included the level of detail and complexity of the proposed rule and the adverse cost and schedule impact on new nuclear power plant construction. Several meeting attendees agreed that a rule is needed and provided several suggestions with respect to what the focus and extent of the rule should be. The remainder of the feedback generally pertained to the proposed revisions to Title 10 of the *Code of Federal Regulations* (CFR) Section 73.52, and will inform the staff during additional development of the draft proposed rule.

A list of attendees is provided in Enclosure 1.

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As stated

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DATE	04/22/2010	04/21/2010	04/22/2010

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Public Workshop to Discuss Draft Proposed Rule Text for Proposed Rulemaking on
Requirements for Access Authorization and Physical Security during
Nuclear Power Plant Construction

March 31, 2010
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Doug Huyck	Hamer Carter	Progress Energy
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Butch Burton	Peter Defilippi	Westinghouse
Earl Libby	Joe Gillespie	SCANA
Richard Correia	George Zinke	Entergy
Scott Morris	Steve Shipman	Southern Nuclear Company
	Jerry Harrison	SCANA
	Dave Mullen	IBEW
	Jack Heyer	IBEW
	Douglas Schweers	UniStar
	David Scoville	Shaw
	Ron Rose	FENOC
	Vijay M. Nilekani	NEI
	Neil Haggerty	NuStart
	Emily Duncan	Winston & Strawn LLP
	Nelson Martin	Dominion
	Michael Whitlock	Dominion
	Fred Pubeo	STPNOC
	Kimberly Keithline	NEI
	Keith Paulson	MNES
	James Gracely	Curtiss-Wright
	Jonathan Rund	Morgan Lewis
	Steven Hamrick	FPL
	Victoria Bor	Sherman, Dunn, Cohen
	William Kaczorowski	BCTD, AFL-CIO
	Susan Gray	State of Maryland
	Deana Raleigh	Sciencetech/Curtiss-Wright
	Robert Reible	Luminant
	Elizabeth McAndrew-Benavides	NEI
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	Mike Bauser	NEI
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	John Oddo	Shaw Group
	John Sefick	Shaw Group
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	Dan Shutt	Shaw Group
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(Revised 03/17/2010)

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