

July 30, 2010

Mr. Marvin S. Fertel  
President and Chief Executive Officer  
Nuclear Energy Institute  
1776 I Street, NW, Suite 400  
Washington, D.C. 20006

Dear Mr. Fertel:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated June 18, 2010. Your letter raised concerns regarding the dual regulation of critical digital assets at U.S. nuclear power plants by both the NRC and the Federal Energy Regulatory Commission (FERC).

As you noted, the NRC has statutory responsibility for licensing and regulating commercial nuclear facilities operating in the United States as well as for the civilian use of byproduct, source, and special nuclear materials in order to protect public health and safety, promote the common defense and security, and protect the environment (Pub. L 93-438, 88 Stat. 1233 (42 U.S.C. 5801 et seq.)).

Numerous issues regarding dual regulatory jurisdiction at U.S. nuclear power plants have arisen over the years. Historically, the NRC and the other Federal agencies have coordinated their jurisdictional areas with memoranda of understanding (MOUs) that commit each agency or organization to cooperate, share information, and to promote the efficient and effective regulation of NRC licensees. These MOUs have proven to be effective for this purpose.

The Energy Policy Act of 2005 directed FERC, through the Electric Reliability Organization, the North American Electric Reliability Corporation (NERC), to develop and impose Critical Infrastructure Protection Reliability Standards on all bulk power suppliers. In an effort to enable common responsibilities for cyber security requirements to be efficiently and effectively administered at U.S. nuclear power plants, the NRC and NERC entered into an MOU in December 2009. Among other topics, this MOU discusses cooperation between both parties in the disposition of FERC Order 706-B exemption process requests. This is the process you noted in your letter that attempts "to determine where the line is drawn" between systems, structures, and components regulated by NRC and FERC. The NRC continues to work collaboratively with FERC and NERC as U.S. nuclear power plant representatives interact with NERC in this ongoing process. NERC refers to this process as the "Bright-Line" process. The Commission will review the results of this process and take the steps needed to assure that any concerns associated with dual regulation are satisfactorily addressed.

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The NRC is committed to the safe and secure operation of all U.S. nuclear power plants while at the same time promoting the efficient and effective regulation of NRC licensees. We will continue to work with FERC and NERC to assure an appropriate coordination of regulatory responsibilities.

Sincerely,

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Gregory B. Jaczko