



NUCLEAR ENERGY INSTITUTE

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NUCLEAR GENERATION DIVISION

March 29, 2011

Ms. Marissa Bailey
Deputy Director
Division of Fuel Cycle Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Industry Comments Relative to March 17, 2011 Public Meeting on "Cornerstone Development and Credit for an Effective Corrective Action Program in the Fuel Cycle Oversight Process."

Project Number: 689

Dear Ms. Bailey:

On behalf of the fuel cycle industry, the Nuclear Energy Institute (NEI)¹ appreciates the opportunity to provide comments relative to discussions at the above referenced public meeting. We thank you for this initial meeting to discuss proposed enhancements to the Nuclear Regulatory Commission's (NRC) Fuel Cycle Oversight Process (FCOP), as directed by the Commission Staff Requirements Memoranda (SRM) resulting from the April 29, 2010 Commission Briefing and SECY-10-0031. We share the NRC's goals of making the FCOP more risk-informed, objective, transparent, and predictable and look forward to continued interactions over the next several months to support the staff's paper due to the Commission in July 2011. We also agree that in the absence of an identified safety concern, the most efficient way to meet these goals is for NRC to work with industry to identify specific, incremental improvements to its current program and to implement them in a step-wise manner.

¹ NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry. 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, nuclear material licensees, and other organizations and individuals involved in the nuclear energy industry.

The current level of discussion is at the conceptual level, which is appropriate at the outset of a major undertaking. It will certainly be important for NRC to discuss its plans for implementation (including plans for a pilot project) and provide further detail of the various concepts in order for industry to provide further input over the next several months. The staff's presentation included a flow chart entitled, "Conceptual Enhancements to FCOP." This flow chart identified current efforts to enhance the FCOP and potential new elements that might be present in an enhanced FCOP. In several areas, the presentation identified initial insights into NRC's implementation plans, including changes to the inspection and enforcement programs. Industry requests that in preparation for the next public meeting scheduled on April 14, 2011, that NRC share its integrated project plan and schedule (including key milestones) for the FCOP to identify how proposed enhancements fit together with implementation details. It was also noted that the process depiction of the model and the descriptive words regarding "cross cutting issues" did not match. The descriptive words seemed logical, and therefore, the process model needs to have the "cross cutting issues" block moved to feed off the "inspection finding screening tool" and input to the "performance assessment" phase of the process.

Each fuel cycle facility is committed to maintaining an effective corrective action program (CAP) to sustain high levels of safety performance. During the meeting, industry presented the essential elements of a corrective action program for safety, which are attached to this letter, and we are pleased that they appeared to align with the staff's proposed elements. One element of a CAP included in the staff presentation involves periodic assessments by independent entities, and we understand that NRC's intention for "independent" includes individuals that may be employed by the licensee who do not manage, oversee, or are directly responsible for the process being assessed.

With respect to enforcement, our understanding is that the NRC proposal would be to disposition Severity Level IV violations (whether they be self-identified, event-identified, or identified by NRC) as Non-Cited Violations, assuming certain criteria similar to that found in Section 2.3.2.a of NRC's Enforcement Policy, but modified to be appropriate for fuel cycle facilities, are satisfied. During the meeting, there was agreement that a new section in the Enforcement Policy specific to fuel cycle facilities was warranted. A proposed revision to the Enforcement Policy is attached for staff consideration. In addition, we look forward to understanding further implementation details, including changes to the baseline inspection program, enforcement policy, anticipated "approval" process, and inspection guidance. We would anticipate that changes to the baseline inspection program would be risk-informed and result in less inspection hours as warranted, while continuing to assure that NRC's mission is effectively performed.

The staff presentation also included discussion of proposed cornerstones and objectives and identified that future stakeholder meetings will include discussion of scope, desired results, key attributes for each cornerstone, and how the staff intends to measure and ensure that objectives are being met. Industry is generally supportive of the proposed cornerstones, but much more

detail, definition, and information regarding each cornerstone and how they fit in the regulatory framework is essential in order to have more substantive and meaningful discussions. Given that we have not received these key details to date, we are concerned about the opportunities to have these discussions within the limited time remaining to provide a recommendation to the Commission. During the meeting, industry expressed concern with language included in several of the proposed cornerstone objectives and recommends that they be limited to meeting the performance criteria based in the regulations (e.g. 10 CFR 70.61, Part 20, or other regulations relevant to the scope of the cornerstone). Specifically, the proposed cornerstone objectives for Criticality Safety and Chemical Process Safety do not appear to be focused on the safety risk of events, but instead are focused on limiting the frequency of events, and the worker and public radiation safety objectives appear to go well beyond Part 20 and As low As Reasonably Achievable (ALARA) guidelines.

The staff presentation also indicated plans to integrate knowledge from the Integrated Safety Analysis (ISA) process to enhance the FCOP. Industry is supportive of these efforts and offers the following suggestions to enhance the use of ISA insights in the FCOP. Fuel cycle facilities having ISAs are required to submit specific ISA updates to NRC each January. Timely NRC review (e.g., 30 days upon receipt) of ISA updates to include identification of "higher risk" changes made during the previous year would provide a feedback loop by NRC with licensees to prioritize and identify areas for inclusion in annual baseline inspections. If the timeline described above cannot be met with current resources, then NRC should consider issuing guidance that would relieve licensees from the January ISA update submittal deadline and, instead, stagger the submittals to accommodate a more timely NRC review. Any generic process, regulatory issues, or concerns identified through NRC's ISA reviews should be disseminated to industry for learning purposes and to identify best practices. Finally, the NRC staff should be mindful that not all facilities have ISAs and this fact must be considered as we proceed to revise the oversight process.

The Commission SRM directed that the staff look for ways to improve stakeholder and licensee communication, especially with respect to current assessment of licensee performance. There are additional opportunities to improve stakeholder and licensee communication to make the inspection program and licensee performance review (LPR) process more effective and efficient. Industry proposes that the NRC provide its baseline inspection program for each facility by February 28 of each year to ensure efficient scheduling and availability of NRC and facility resources. Such information would include the number of inspection hours, team composition, and inspection schedule. NRC should also determine a maximum number of inspection hours per baseline inspection area. With a more performance-based approach to inspection, no minimum inspection hours would be pre-determined. Further, document submittals to NRC in advance of inspection should be kept to a minimum, exits meetings should identify all potential violations and regulatory citations, inspection reports should be issued in a timely manner, licensees should respond in a timely manner, and NRC should review licensee responses in a timely manner (within 30 days). The annual LPR meeting should be comprehensive and include discussion by NRC on all areas

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reviewed/inspected. This would provide an enhanced overview of the effectiveness of the NRC's review and oversight program and not only relay information on violations or negative findings. A more balanced presentation would likely enhance the NRC's and licensee's credibility with its stakeholders.

We look forward to continued interactions on this important topic. Should you have any questions, please feel free to contact me (202-739-8098; jrs@nei.org) or Andrew Mauer (202-739-8018; anm@nei.org).

Sincerely,

A handwritten signature in cursive script, appearing to read "Janet R. Schlueter".

Janet R. Schlueter

Attachments

c: Mr. John Kinneman, NMSS/FCSS, NRC
Ms. Patricia Silva, NMSS/FCSS, NRC
Mr. Jonathan DeJesus, NMSS/FCSS, NRC
Mr. Anthony Gody, Region II, NRC