

May 19, 2011

MEMORANDUM TO: William F. Burton, Chief
Rulemaking and Guidance Development Branch
Division of New Reactor Licensing
Office of New Reactors

FROM: R. Frederick Schofer, Project Manager */RA/*
Rulemaking and Guidance Development Branch
Division of New Reactor Licensing
Office of New Reactors

SUBJECT: SUMMARY OF APRIL 27, 2011, PUBLIC MEETING WITH INDUSTRY'S
NEW PLANT WORKING GROUP ON COMBINED LICENSE
APPLICATIONS

On April 27, 2011, 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's Agencywide Documents Access and Management System (ADAMS) under Accession No. ML110800073. 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. The NRC would also 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. Mandatory Hearing Process for Combined License (COL) Proceedings Update
2. Changes During Construction Update
3. Path Forward for the Construction Reactor Oversight Process (cROP) Assessment Program
4. Inspection, Test, Analysis, and Acceptance Criteria (ITAAC) Demonstration Project Lessons Learned and Path Forward
5. Security Measures during New Reactor Construction

CONTACT: R. Frederick Schofer, NRO/DNRL
301-415-5682

Discussion Topics:

Mandatory Hearing Process for Combined License Proceedings Update (D. Matthews)

Mr. David B. Matthews, Director of NRO/DNRL, stated that the Commission made public SRM-SECY-10-0082, "Mandatory Hearing Process for Combined License Application Proceedings Under 10 CFR Part 52," (ADAMS Accession No. ML103570203). This document lays out the framework for how the agency will conduct mandatory hearings on the first COLAs for nuclear power reactors. Mr. Matthews also referred meeting attendees to the revised internal commission procedures for the mandatory hearings contained in Commission paper, SECY-11-0042, "Revisions to Internal Commission Procedures Section on Mandatory Hearings," dated March 25, 2011, which is publicly available on the NRC Web site (<http://www.nrc.gov/reading-rm/doc-collections/commission/secys/>). Mr. Matthews noted that the controlled process begins as soon as practicable after the staff submits to the Commission an Information paper that describes key issues, the license application, final safety evaluation report (FSER), final environmental impact statement (FEIS), pertinent letter from the Advisory Committee on Reactor Safeguards (ACRS), and a proposed license. Mr. Matthews confirmed that the COL submitted with this Information paper is for sufficiency of review and not for approval. The approval authority for the COL is the Director of NRO.

Mr. Matthews distributed a handout "Vogtle & Summer Licensing: Major Activities and Prerequisites," (Enclosure 2; ADAMS Accession No. ML111370271) which illustrates the flow path forward for any of the design centers where the design certification rulemaking is the principal schedule driver. Although this handout illustrates the Vogtle and Summer plants, the process is similar for each design center.

Mr. Bell, NEI, referred to Commission Paper SECY-10-0082, which stated that the mandatory hearing would begin concurrent with the completion of the FSER or FEIS, whichever is completed later. Mr. Matthews clarified that in most cases the later document will be the FSER, although the initiation of the mandatory hearing process is the transmittal of the Information paper to the Commission. Mr. Matthews stated that this document will be prepared concurrent with the finalization of the FSER although it may take several days to make required conforming changes, prepare the submittal package, and profile and process the documents into the NRC document control system.

Changes During Construction Update (J. Wilson)

Mr. Jerry N. Wilson (NRO/DNRL/NRGA) was introduced to present this topic. Mr. Wilson provided an overview of the status of this effort and referred to the four problem statements that are addressed by this topic:

1. Determine the activities, if any, that can be performed by licensees during construction while the NRC is reviewing the requested changes to the licensing basis (license amendments).
2. Determine if changes should be recommended for the NRC's enforcement policy to provide for enforcement discretion during new plant construction.

3. Determine for new plants the applicability of the existing Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.59 guidance (NEI 96-07, Revision 1) and what changes are necessary to this guidance.
4. Establish guidance that should be used for evaluating changes to the severe accident design features (VIII.B.5.c) of each design certification rule (DCR) (construction & operation).

Mr. Wilson described that the staff has made good progress in developing this alternative procedure. On April 28 and May 12, 2011, public workshops were scheduled to test the preliminary acceptability review (PAR) process using construction change examples supplied by industry and NEI. With respect to problem Statement 2 addressing enforcement policy, the staff has finished its work and has made recommendations to NRO management. In general, these recommendations state that if a licensee follows the PAR process and receives an acceptability decision while the change is pending then this will not be considered a violation. However, it will be considered a violation if what is constructed is different from the licensing basis and an acceptability decision under the PAR process is not received. For problem Statement 4, Mr. Wilson stated that NEI is currently revising NEI guidance document NEI 96-07, Appendix C, "Guideline for Implementation of Change Control Processes for New Nuclear Power Plants Licensed Under 10 CFR Part 52," to incorporate input provided during the December 2, 2010, public workshop (ADAMS Accession No. ML110130408). Mr. Wilson stated that the staff's guidance document describing this process will be issued by the end of August 2011.

Mr. Bell, NEI, acknowledged that the staff has made a lot of progress on the PAR process and looks forward to the tabletop exercise at the April 28, 2011 public workshop to test the procedure with real life examples. However, Mr. Bell understands that the NRC has concerns regarding those circumstances where licensees desire to proceed with certain construction activities during the pendency of the NRC's review and decision on the related license amendment requests (LARs) and asked what is the NRC's concern. Mr. Matthews responded that the staff has extensively evaluated the potential sequences of actions and timing of communications on the part of the NRC and the licensee during the execution of the PAR process. The staff has determined that the integrity of the overall license amendment review process necessitates communication of the NRC's PAR determination following the NRC's receipt of the corresponding LAR. The staff needs a full understanding of what will be potentially requested in the license amendment in order to reach a decision as to whether the NRC will not object to the licensee proceeding at their own risk in advance of the decision on the LAR. Also, the PAR/LAR sequence is essential to ensure the NRC's inspectability assumptions and inspection actions are not compromised during the construction of the proposed changes or modifications to the current licensing basis.

Ms. Marilyn Kray, Exelon, asked a follow-up question that if licensees need to submit a LAR then why is a PAR needed? Mr. Matthews responded that the licensee PAR request contains a description of the proposed plant change or modification; the timeframe which the licensee requests notification from the NRC of its PAR decision; a proposed no significant hazards determination; the proposed environmental exclusion category; inspection schedule changes identifying limited timeframe and one time availability for inspection; and any changes, additions, deletions of the ITAAC. In emergent situations, the PAR is the bases for the NRC to begin its review process. Mr. Matthews also noted that the PAR request excludes the technical

attributes contained within the LAR and that technical details relevant to the inspection of the LAR will be available in the detailed design package maintained by the licensee.

Path Forward for the Construction Reactor Oversight Process Assessment Program (L. Dudes)

Ms. Laura A. Dudes, Director of the Division of Construction Inspection and Operational Programs (NRO/DCIP), was introduced to provide an update on the cROP Assessment Program Maintenance discussed in Commission paper, SECY-10-0140, "Options for Revising the Construction Reactor Oversight Process Assessment Program," (ADAMS Accession No. ML102500499). Ms. Dudes stated that the Commission SRM, dated March 21, 2011 (ADAMS Accession No. ML110800557) approved the regulatory framework, the use of a construction significance determination process (SDP) to determine the significance of findings identified during the construction inspection program, and the use of a construction action matrix to determine the appropriate NRC response to findings. Last week a Category 2 public meeting (ADAMS Accession No. ML111290252) was held to exchange ideas regarding inputs to the construction SDP matrix. Ms. Dudes added that the staff plans to brief the ACRS in September 2011 and begin the pilot program at Vogtle and Summer in Fiscal Year 2012.

ITAAC Demonstration Project Lessons Learned and Path Forward (L. Dudes)

Ms. Laura Dudes stated that the Simulated ITAAC Closure and Verification Demonstration was valuable in exercising key portions of the ITAAC closure and verification processes to identify areas for improvement. Lessons learned from this process are being documented in a report, which will be issued in late May 2011. Ms. Dudes stated that for the upcoming June 2, 2011, public meeting, the focus is on discussing issues that require the combined efforts from the NRC and industry. Ms. Dudes stated that three topics that meet this criterion are ITAAC closure notifications, the 225-day notification letter, and NRC review of NEI planning documents to get a common understanding of planned closure strategies.

In response to a question regarding the duration of the ITAAC closure reviews, Ms. Dudes stated that the ITAAC closure verification process is still being finalized. The verifications are estimated to require 2 to 3 hours per item in order to check that the closure information is complete and does not contradict what was previously provided.

Security Measures during New Reactor Construction (F. Schofer)

Mr. Schofer stated that on October 21, 2010, the staff submitted a Commission paper, SECY-10-0137, "Proposed Rule: Requirements for Access Authorization and Physical Protection during Nuclear Power Plant Construction (RIN 3150-AI65)," (ADAMS Accession No. ML101900342) requesting Commission approval to publish for public comment a proposed rulemaking that would add requirements related to access authorization and physical protection during the construction of new nuclear power plants.

On March 30, 2011, the Commission issued a staff requirements memorandum (ADAMS Accession No. ML110890821) disapproving the recommendation to publish the proposed rule. The Commission also directed the staff to terminate this rulemaking effort. Part of the reason that the Commission disapproved the proposed rule is because there is an expectation that the

industry will voluntarily implement some form of a construction security program based on NEI guidance document NEI 09-01, "Security Measures During New Reactor Construction." The staff encourages industry's implementation of this voluntary program.

Mr. Schofer added that the staff was also directed to continue to focus on the plant's transition from construction into its operational phase, including implementation of the requirements of 10 CFR 73.55, to ensure that the safety and security-related structures, systems, and components are protected. Activities planned or already underway to address this requirement include focusing on the operational readiness of the physical security plan under 10 CFR 73.55, the behavior observation program, and the handling and protection of new fuel under 10 CFR 73.67.

In response to a question regarding whether the staff plans to issue new regulatory guidance on security measures during new reactor construction, Mr. Matthews responded that with the termination of this rulemaking effort, the staff has no basis to issue guidance on this topic. Mr. Matthews added that the staff does not plan on reviewing or endorsing NEI guidance document NEI 09-01.

Industry Identified Issues

Mr. Bell referred to a quarterly status report made public on April 25, 2011, which reported that the Economic Simplified Boiling-Water Reactor (ESBWR) DCR may be delayed due to Office of Management and Budget (OMB) limits on the number of rulemakings that it can handle at one time and asked if the NRC could explain the OMB situation and its impact on the ESBWR design certification schedule. Mr. Schofer responded that one of the issues that can impact publication of a final rule is the receipt of information collection clearance from the OMB required by the Paperwork Reduction Act. A clearance package must be submitted to and approved by OMB before the rule can be sent to the Office of the Federal Register for publication. The NRC staff is working on five 10 CFR Part 52 rulemakings. Each of these rules requires an OMB approval of information collection requirements before the final rule can become effective. The NRC seeks OMB review and approval just after publication of the proposed rule and before publication of the final rule, the latter being when approval is given. Mr. Schofer stated that OMB's electronic system, the Regulatory Information Service Center and the Office of Information and Regulatory Affairs Consolidated Information System, only permits one rulemaking action on a given collection (e.g., 10 CFR Part 52) at a time. OMB is required to complete its action on the request (approve, disapprove or file comments) within 60 calendar days of the request. While this does not affect these rulemakings during the proposed rule phase, this process may force the NRC staff to sequence its submittal to and subsequent approval from OMB for each rulemaking. While OMB does not typically take the full 60 calendar days to complete their action, the NRC staff has identified a risk that OMB's approval process may delay publication of the ESBWR final rule until January 2012.

The NRC staff is analyzing other near-term NRC rulemaking schedules to identify those that might compete with DC- and COL-related rulemakings for OMB's prompt action. Subsequently, NRO staff will recommend mitigation actions that might be necessary to reduce this delay.

Public Comments

Hearing no questions, Mr. Schofer adjourned the meeting.

Enclosures:

1. Attendance List
2. Vogtle & Summer Licensing:
Major Activities and Prerequisites

cc w/encl: See next page

Public Comments

Hearing no questions, Mr. Schofer adjourned the meeting.

Enclosures:

- 1. Attendance List
- 2. Vogtle & Summer Licensing:
Major Activities and Prerequisites

cc w/encl: See next page

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ADAMS Accession No.: ML111370210 (pkg) *via e-mail NRC-001

OFFICE	PM:NRO/DNRL/NRGA	LA:NRO/DNRL/NRGA	BC:NRO/DNRL/NRGA
NAME	FSchofer	FKeith*	WBurton
DATE	05/17/11	05 /19/11	05/19/11

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**PUBLIC MEETING WITH INDUSTRY'S NEW PLANT WORKING
GROUP ON COMBINED LICENSE APPLICATIONS
April 27, 2011**

Attendance List

Name	Organization	Name	Organization
Fred Schofer	NRC/NRO/DNRL	Bob Kitchen	Progress Energy
David Matthews	NRC/NRO/DNRL	Dan Breig	Southern California Edison
Laura Dudes	NRC/NRO/DCIP	Tony Pietrangelo	NEI
Sue Goetz	NRC/NRO/DNRL	Rolf Ziesing	Westinghouse
James Vaughn	NRC/NSIR/DSP	Vijay M. Nilekani	NEI
Jerry Wilson	NRC/NRO/DNRL	John Atwell	Bechtel
Steve Byrne	SCANA	Jack Bailey	TVA
Doug Walters	NEI	Brian Johnson	GE-Hitachi
Russ Bell	NEI	Randy Douet	Entergy
Greg Gibson	Unistar	Brian McIntyre	Areva
Mark McBurnett	NINA/STP34	Al Bynum	SCANA
Chuck Pierce	SNC	Steve Frantz	Morgan Lewis
Marilyn Kray	Exelon	Mark Flanagan	NEI
David Harwood	DTE Energy	Mitch Siticoer	NEI
John Maciriewski	INPO	Tom Houghton	NEI
Kimberly Keithline	NEI	Anne Cottingham	NEI
Jeannie Rinckel	NEI	Ken Vletcher	Exchange Monitor
Bob Schrauder	TANE		
Frank Gillespie	MNES		
Bill Maher	FPL		
Ron Jones	Duke Energy		
Mark Giles	Dominion		
Participants Via Teleconference			
Deann Raleigh	Sciencetech		
George Strambeck	Westinghouse		
Judith Waite	Standard and Poor's		

DCWG - Combined (All)

(Revised 04/13/2011)

cc:

Mr. Ray Aycock
Field Supervisor
U.S. Fish and Wildlife Service
Mississippi Ecological Services Office
6578 Dogwood View Parkway
Jackson, MS 39213

Mr. Richard L. Baker
Bechtel Power Corporation
5275 Westview Drive
Frederick, MD 21703-8306

Paul M. Bessette
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004

Scott Bond
Callaway Plant
P.O. Box 620
Fulton, MO 65251

Ms. Michele Boyd
Legislative Director
Energy Program
Public Citizens Critical Mass Energy
and Environmental Program
215 Pennsylvania Avenue, SE
Washington, DC 20003

Ms. Cindy Brizes
U.S. Department of Energy
P.O. Box A
Aiken, SC 29802

Mr. Barton Z. Cowan, Esquire
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

Director
Division of Compliance & Inspection
Bureau of Radiation Control
Texas Department of State Health Services
1100 West 49th Street
Austin, TX 78756-3189

Mr. Eugene S. Grecheck
Vice President
Nuclear Support Services
Dominion Energy, Inc.
5000 Dominion Blvd.
Glen Allen, VA 23060

Ms. Sophie Gutner
P.O. Box 4646
Glen Allen, VA 23058

Mr. Brian Hastings
Public Utility Commission
William B. Travis Building
P.O. Box 13326
1701 North Congress Avenue
Austin, TX 78701-3326

Mr. Adam C. Heflin
Senior Vice President and
Chief Nuclear Officer
AmerenUE/Callaway Plant
P.O. Box 620
Fulton, MO 65251

Mr. Ronald Kinney
South Carolina DHEC
2600 Bull Street
Columbia, SC 29201

Dr. Regis A. Matzie
Senior Vice President and
Chief Technology Officer
Westinghouse Electric Company
20 International Drive
Windsor, CT 06095

DCWG - Combined (All)

Mr. Norris McDonald
President
AAEA
9903 Caltor Lane
Ft. Washington, MD 20744

Mr. Gary Wright, Director
Division of Nuclear Facility Safety
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield, IL 62704

Dr. Masanori Onozuka
Mitsubishi Nuclear Energy Systems, Inc.
1001 19th Street North, Suite 710
Arlington, VA 22201-5426

Dr. C. Keith Paulson
Mitsubishi Nuclear Energy Systems, Inc.
300 Oxford Drive, Suite 301
Monroeville, PA 15146

PBMR Pty. Limited
Lake Buena Vista Building
1267 Gordon Hood Avenue
PO Box 9396
Centurion 0046
Republic of South Africa

Mr. Ernest Reed
Living Education Center
for Ecology and the Arts
P.O. Box 2612
Charlottesville, VA 22902

Mr. Tom Sliva
7207 IBM Drive
Charlotte, NC 28262

Mr. David W. Sutherland
Chesapeake Bay Field Office
U.S. Fish and Wildlife Service
177 Admiral Cochrane Drive
Annapolis, MD 21401

Mr. Robert E. Sweeney
IBEX ESI
4641 Montgomery Avenue
Suite 350
Bethesda, MD 20814

DCWG - Combined (All)

Email

alsterdis@tva.gov (Andrea Sterdis)
amonroe@scana.com (Amy Monroe)
APAGLIA@Scana.com (Al Paglia)
APH@NEI.org (Adrian Heymer)
awc@nei.org (Anne W. Cottingham)
bevans@enercon.com (Bob Evans)
Bill.Jacobs@gdsassociates.com (Bill Jacobs)
Bill.Moore@luminant.com (Bill Moore)
BrinkmCB@westinghouse.com (Charles Brinkman)
brock.degeyter@energyfutureholdings.com (Brock Degeyter)
Carellmd@westinghouse.com (Mario D. Carelli)
ck_paulson@mnes-us.com (Keith Paulson)
ckpaulson@aol.com (C.K. Paulson)
CumminWE@Westinghouse.com (Edward W. Cummins)
cwaltman@roe.com (C. Waltman)
david.hinds@ge.com (David Hinds)
david.lewis@pillsburylaw.com (David Lewis)
DeLaBarreR@state.gov (R. DeLaBarre)
DJW@NEI.org (Doug Walters)
donald.woodlan@luminant.com (Donald Woodlan)
ecullington@earthlink.net (E. Cullington)
eddie.grant@excelservices.com (Eddie Grant)
erg-xl@cox.net (Eddie R. Grant)
ewallace@nuscalepower.com (Ed Wallace)
frank_quinn@comcast.net (Frank Quinn)
Fred.Madden@luminant.com (Fred Madden)
gcesare@enercon.com (Guy Cesare)
gedgar@morganlewis.com (George Edgar)
GovePA@BV.com (Patrick Gove)
gwcurtis2@tva.gov (G. W. Curtis)
gzinke@entergy.com (George Alan Zinke)
hickste@earthlink.net (Thomas Hicks)
ian.c.rickard@us.westinghouse.com (Ian C. Richard)
james.beard@gene.ge.com (James Beard)
JCaldwell@luminant.com (Jan Caldwell)
jeff.simmons@energyfutureholdings.com (Jeff Simmons)
jerald.head@ge.com (Jerald G. Head)
jim.riccio@wdc.greenpeace.org (James Riccio)
Jrappe@nuscalepower.com (Jodi Rappe)
joel.Friday@ge.com (Joel Friday)
John.Conly@luminant.com (John Conly)
john.elnitsky@pgnmail.com (John Elnitsky)
Joseph_Hegner@dom.com (Joseph Hegner)
joseph_tapia@mnes-us.com (Joseph Tapia)
junichi_uchiyama@mnes-us.com (Junichi Uchiyama)
karen@seedcoalition.org (Karen Hadden)

DCWG - Combined (All)

KSutton@morganlewis.com (Kathryn M. Sutton)
kwaugh@impact-net.org (Kenneth O. Waugh)
lchandler@morganlewis.com (Lawrence J. Chandler)
lois@ieer.org (Lois Chalmers)
Marc.Brooks@dhs.gov (Marc Brooks)
maria.webb@pillsburylaw.com (Maria Webb)
marilyn.kray@exeloncorp.com
mark.beaumont@wsms.com (Mark Beaumont)
mark.g.giles@dom.com (Mark Giles)
masanori_onozuka@mnes-us.com (Masanori Onozuka)
masayuki_kambara@mhi.co.jp (Masayuki Kambara)
matias.travieso-diaz@pillsburylaw.com (Matias Travieso-Diaz)
maurerbf@westinghouse.com (Brad Maurer)
mbowling@numarkassoc.com (Marty Bowling)
media@nei.org (Scott Peterson)
melto1ma@westinghouse.com (Michael Melton)
mike.blevins@luminant.com (Mike Blevins)
mike_moran@fpl.com (Mike Moran)
mlucas3@luminant.com (Mitch Lucas)
MSF@nei.org (Marvin Fertel)
mwetterhahn@winston.com (M. Wetterhahn)
nirsnet@nirs.org (Michael Mariotte)
Nuclaw@mindspring.com (Robert Temple)
patriciaL.campbell@ge.com (Patricia L. Campbell)
Paul@beyondnuclear.org (Paul Gunter)
pbessette@morganlewis.com (Paul Bessette)
pshastings@duke-energy.com (Peter Hastings)
rbird1@luminant.com (Bobby Bird)
rclary@scana.com (Ronald Clary)
REB@NEI.org (Biff Bradley)
Rebecca.Smith-Kevern@nuclear.energy.gov (Rebecca Smith-Kevern)
RJB@NEI.org (Russell Bell)
robert.kitchen@pgnmail.com (Robert H. Kitchen)
sandra.sloan@areva.com (Sandra Sloan)
sfrantz@morganlewis.com (Stephen P. Frantz)
shinji_kawanago@mnes-us.com (Shinji Kawanago)
sid.kere@dom.com (Sid Kere)
stephan.moen@ge.com (Stephan Moen)
steven.hucik@ge.com (Steven Hucik)
tgilder1@luminant.com (Tim Gilder)
tkkibler@scana.com (Tria Kibler)
tom.miller@nuclear.energy.gov (Thomas P. Miller)
tomccall@southernco.com (Tom McCallum)
Tony_Banks@dom.com (Tony Banks)
trsmith@winston.com (Tyson Smith)

DCWG - Combined (All)

Vanessa.quinn@dhs.gov (Vanessa Quinn)
vijukrp@westinghouse.com (Ronald P. Vijuk)
Wanda.K.Marshall@dom.com (Wanda K. Marshall)
wayne.marquino@ge.com (Wayne Marquino)
whorin@winston.com (W. Horin)