

July 21, 2011

MEMORANDUM TO: Andrew S. Imboden, Chief
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SUBJECT: MEETING BETWEEN THE U.S. NUCLEAR REGULATORY
COMMISSION STAFF AND PUBLIC STAKEHOLDERS
CONCERNING IMPLEMENTATION OF FINAL RULE FOR
REVISIONS TO THE ENVIRONMENTAL PROTECTION
REGULATIONS FOR THE RENEWAL OF NUCLEAR POWER
PLANT OPERATING LICENSES AND OTHER LICENSE
RENEWAL ENVIRONMENTAL REVIEW ISSUES
(TAC NO. ME2308)

On June 21, 2011, a Category 3 Public Meeting was held between the U.S. Nuclear Regulatory Commission (NRC) staff and representatives from Nuclear Energy Institute (NEI), industry representatives, and other public stakeholders at NRC headquarters in Rockville, Maryland. The meeting concerned the implementation of the final rule for revisions to the Environmental Protection Regulation for the Renewal of Nuclear Power Plant Operating Licenses. Enclosure 1 lists the meeting participants.

A public meeting notice was issued on June 9, 2011, and was posted on the NRC's external (public) web page (ADAMS Accession No. ML11159A023). The notice included the meeting agenda and a distribution list. The forum included comments by industry and members of the public.

In opening remarks, Mr. Rob Krsek, the meeting facilitator, stated that the purpose for the public meeting was to discuss the implementation of the final rule revising the environmental protection regulations for the renewal of nuclear power plant operating licenses. Mr. Krsek stated that

since the public comment period has closed on the proposed rule and the draft final rule had not yet been submitted to the Commission, no additional comments would be taken on the rule itself. The proposed rule was issued on July 31, 2009, and the public comment period closed on January 12, 2010. The proposed rule and public comments are available at <http://www.regulations.gov>. Following the opening remarks of Mr. Krsek, Andrew Imboden, Chief of the Environmental Review and Guidance Update Branch gave a briefing of the rule status.

NEI and Industry

NEI and industry representatives began by thanking NRC staff for the opportunity to discuss the implementation of the rule, and requested clarification on the anticipated effective date of the final rule. NRC staff responded by describing the timeline for the issuance of the final rule and anticipates the effective date of the final rule would be in 2012. NRC staff stated that any license renewal applications submitted after the effective date of the final rule will have to adhere to the new rule and associated NRC guidance. Any applications submitted before must continue to follow the current rule. NEI and industry representatives reiterated their comments on the proposed rule including concerns about the final rule scheduling, stating that anything less than an effective date of 18-months after issuance of the final rule would present a problem for them. This is because it typically takes about 2 years to prepare a license renewal application and Environmental Report (ER). NEI and industry representatives asked whether relief in the form of an exemption to the effective date of the final rule could be granted to applicants on a case-by-case basis. A representative from the NRC Office of the General Counsel replied that applicants could apply for an exemption, but that it would not necessarily be granted.

NEI and industry representatives also asked for clarification on the reporting threshold for information on spills and leaks at nuclear plant sites, when addressing the "Groundwater and Soil Contamination" issue in the proposed rule. NRC staff responded by stating the threshold should be consistent with governing regulatory reporting thresholds and guidance will be provided in a Regulatory Guide. NRC staff also pointed out that this information is needed to help characterize affected environment conditions at nuclear plants with respect to past groundwater and soil contamination and that this information is currently being requested on license renewal environmental reviews. NRC staff further stated that it was necessary to codify requests for such information while recognizing that environmental protection regulations are different from state-to-state.

NEI and industry representatives stated they are planning to hold a "How To" workshop to provide training for licensees on the new rule changes and revised NRC guidance for preparing ERs and license renewal applications. NEI and industry representatives would like NRC staff to participate and are looking to hold the workshop the beginning of the 3rd quarter, 2012. NRC staff expressed their support for such a workshop.

Public Participation

Following comments from NEI and Industry, the floor was opened for comments from members of the public.

As summarized below, several participants provided comments stating the final rule should be delayed until lessons learned from the events at the Fukushima Daiichi Nuclear Power Plant in Japan can be incorporated.

Ace Hoffman, author of "The Code Killers: An Expose of the Nuclear Industry," expressed the concern that the discussion on the implementation of the rule had not yet included a discussion about the "elephant in the room" as he called it (i.e., Fukushima). Mr. Hoffman spoke several times throughout the meeting. His substantive remarks included the following regarding the Fukushima Daiichi events: (1) the rulemaking should be put on hold, at least pending the results of the Fukushima Daiichi investigation, (2) the Japanese government appears unable to deal with the consequences of Fukushima and the U.S. would also not be able to deal with a similar incident; (3) Fukushima has shown that contamination from this kind of an accident can spread much farther than ever expected, (4) the U.S. government colluded with its Japanese counterparts on the events as evidenced by each government's reactions and the movements of the U.S. Navy; and (5) all U.S. nuclear power plants should be shut down at least until all safety issues are corrected and lessons learned from Fukushima are incorporated. Mr. Hoffman also questioned the number of attendees and asked how a member of the press would get on the invitees list. NRC staff stated that a press release was issued as a means to alert the media.

Derek Casady, a resident of California and member of the Alliance for Nuclear Responsibility, supported Ace Hoffman's statements on Fukushima, stating that Ace Hoffman "said it all."

NRC staff responded by noting that changes to the rule could be undertaken based on findings from the NRC Fukushima Task Force and by direction from the Commission. NRC staff responded by noting that the Commission was scheduled to receive another briefing from the Fukushima Task Force on July 19, 2011, as part of the Commission's 90-day review. The Commission will decide what regulatory actions, if any, will be developed as a result of the staff's evaluation. Any safety actions imposed by the NRC as a result of Fukushima are expected to be implemented by all licensed nuclear power plants to maintain an adequate level of safety. The environmental review performed during license renewal is part of the overall process where safety and environmental issues are evaluated to ensure applicable regulatory requirements are met to ensure adequate protection of the public and the environment. NRC staff stated that this rulemaking has been under review since 2003 and the NRC is not seeking to delay the rulemaking, but noted that the rule could be amended and/or supplemented based on task force findings.

Richard Webster, a Public Justice attorney (publicjustice.net) for the Hudson River Sloop Clearwater-Riverkeeper Indian Point proceeding, asked if severe accidents mitigation alternatives (SAMA) guidance in the license renewal regulatory guide (Reg. Guide 4.2, S1) was being revised to include the Fukushima event. He noted concerns that SAMA methodologies are based on short-term releases (hours) and that the regulatory guide direction needs to be updated to require longer-term release as reflected by the Fukushima Daiichi events. NRC responded that SAMA was being reviewed by RES as part of this rulemaking, and that consideration of SAMAs as a site-specific issue remains part of the proposed rule. Later, Mr. Webster also expressed concern that NRC's responses to questions concerning Fukushima seem to be saying different things and that he was concerned that this issue would "fall through the cracks." He also stated that the NRC should ensure by regulation that applicants comply with the National Environmental Policy Act (NEPA), in the way that the NRC must also comply

with the statute. In a separate response, NRC staff described the differences between the safety review and the environmental review process, and the use of SAMAs.

The NRC's meeting facilitator, Rob Krsek, took the action to provide Mr. Webster with a name and number of an NRC staff member who could answer questions regarding the NRC Task Force for Review of the Agency's Response to the events in Japan that were unanswered at the public meeting.

Matthew Brock, Massachusetts Assistant Attorney General, proposed that the public comment period be reopened in light of the events at the Fukushima Daiichi plant with an opportunity to comment on SAMA. NRC staff reiterated that the public comment period on the proposed rule has closed. NRC staff also mentioned that there will be another briefing from the Fukushima Task Force on July 19, 2011, as part of the Commission's 90-day review. Mr. Brock spoke several times throughout the public meeting and provided the following comments on the implementation of the rule: (1) hold off submitting the final rule until Fukushima can be considered, especially as it relates to SAMAs and evacuations, (2) indicated that the State of Massachusetts does not agree with the NRC's position on proceeding with the final rule without consideration of Fukushima, (3) asked if NRC staff would submit a reason for not considering Fukushima prior to issuing the final rule and to present its reasoning to the Commission, and (4) noted that too many plants would be grandfathered from any future rulemakings that incorporate Fukushima lessons learned and this alone requires a "step back" in the process. NRC staff reiterated that the findings of Fukushima Task Force could result in changes to the rule. NRC staff also made it clear that the Commission was fully aware of this rulemaking.

Chuck Wilson, Tennessee Valley Authority, asked when the final rule would be issued. NRC staff stated that the Commission will receive the rule in September 2011 and that it would be 2012 before its review is completed and the final rule can be issued.

John Sipos, New York State Assistant Attorney General, stated several times that the State of New York supports the views of the Commonwealth of Massachusetts. He expressed concern that the advanced notice of the public meeting was not as broad as it could have been and specifically noted that several offices and agencies of the State of New York were not included on the distribution list, although they had previously submitted comments on the proposed rule. Further, Mr. Sipos provided the following comments on the implementation of the rule: (1) the lack of a broader distribution list may have reduced the number of participants in this meeting, (2) questioned the reason for calling the public meeting, (3) the agenda was unclear and non-specific as to the topics to be discussed, (4) there is a need for "real world" events to be considered in environmental protection regulations, (5) it would be more helpful to hear the NRC staff's thoughts on the relevance of Fukushima Daiichi to the rulemaking; and (6) he echoed Mr. Brock's comments on the concerns about evacuation plans for Indian Point and observed that Indian Point has the highest population density of any plant. NRC staff responded that "real world" events are considered during every license renewal review. For example, numerous environmental issues including "real world" events are often brought to the attention of the NRC through the NEPA scoping process and NRC regulatory petition for rulemaking process. NRC staff also explained that there are many ways for "real world" events to be considered during license renewal environmental reviews.

A. Imboden

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For any additional questions concerning NRC license renewal as it relates to the NRC's Fukushima Task Force please see page 58 to the attached hyperlink, <http://pbadupws.nrc.gov/docs/ML1116/ML111650021.pdf>.

Enclosure:
List of Attendees

cc w/encl: See next page

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For any additional questions concerning NRC license renewal as it relates to the NRC's Fukushima Task Force please see page 58 to the attached hyperlink, <http://pbadupws.nrc.gov/docs/ML1116/ML111650021.pdf>.

Enclosure:
List of Attendees

cc w/encl: See next page

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S. Schneider	R. Chandrathil
R. Krsek	V. Dricks
S. Uttal	N. McNamara
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DATE	07/08/2011	07/15/2011	07/20/2011	07/21/2011

OFFICIAL RECORD COPY

LIST OF ATTENDEES
MEETING REGARDING IMPLEMENTATION OF FINAL RULE FOR REVISIONS TO THE
ENVIRONMENTAL PROTECTION REGULATIONS FOR THE RENEWAL OF NUCLEAR
POWER PLANT OPERATING LICENSES, AND OTHER LICENSE RENEWAL
ENVIRONMENTAL REVIEW ISSUES

TUESDAY, JUNE 21, 2011

Nuclear Regulatory Commission Attendees		
NAME	TITLE	ORGANIZATION
Alicia Williamson	Project Manager	NRO/DSER
Andrew Pessin	Senior Attorney	OGC
Andy Imboden	Branch Chief	NRR/DLR/RERB
April BeBault	Biologist	NRR/DLR/RERB
Jeff Rikhoff	Senior Environmental Scientist	NRR/DLR/RERB
Kevin Folk	Project Manager	NRR/DLR/RERB
Robert Krsek	Facilitator	NRC
Shana Helton	Branch Chief	NRR/DPR/PRMB
Stephen Klementowicz	Senior Health Physicist	NRR/DLR/RERB
Stewart Schneider	Senior Project Manager	NRR
Susan Uttal	Senior Attorney	OGC

ENCLOSURE

Attended at NRC Headquarters		
NAME	TITLE	ORGANIZATION
Brian Littleton	Environmental Engineer	U.S. EPA
James A. Thomas	Manager, Electric Utilities	Enercon
Jonathan Rund	Attorney	Morgan Lewis
Kathleen Yhip	Senior Project Manager	NEI/SCE
Nancy Prather Ranek	Environmental Lead	Exelon
Pete Cochran	Summer Associate	Morgan Lewis
Rick N. Buckley	Senior Project Manager	Entergy

Teleconference Participants		
NAME	TITLE	ORGANIZATION
Ace Hoffman	Author	The Code Killers: An Expose of the Nuclear Industry
Chuck Wilson	Not identified	Tennessee Valley Authority
Deborah Brancato	Not identified	Riverkeeper
Derek Casady	Citizen	Alliance for Nuclear Responsibility
John Sipos	Assistant Attorney General	New York Office of the Attorney General
John Snooks	Senior Environmental Consultant	AREVA
Matthew Brock	Assistant Attorney General	Massachusetts Office of the Attorney General
Melanie (no last name given)	None provided	None provided
Richard Webster	Public Justice Attorney	Hudson River Sloop Clearwater and Riverkeeper
Steve (no last name given)	None provided	None provided

Expressed an Interest in the Meeting But Did Not Indicate They Were on the Phone		
NAME	TITLE	ORGANIZATION
Collette McManus	Not identified	Not identified
David Sonneborn	Member	Democratic Party of Orange County, CA Resolutions
Frank L. Haselton	Managing Principal	LSA Associates, Inc.
Heather Westra	Not identified	Prairie Island Indian Community
J.A. Savage	Editor	California Current Your Energy Source
Jennifer Cook	Associate	Duane Morris
Jennifer	Not identified	Massachusetts Attorney General Office
Jualy Jones	Not identified	Not identified
Karen Stone	Not identified	Not identified
Karen Tuccillo	Not identified	New Jersey Bureau of Nuclear Engineering
Lyn Harris Hicks	Not identified	Coalition for Responsible and Ethical Environmental Decisions (CREED)
Mary Lampert	Not identified	Pilgrim Security Watch
Nancy Casady	Not identified	Coalition for Responsible and Ethical Environmental Decisions (CREED)
Pam	Not identified	New York Department of Health
Paul Schwartz	Nuclear Engineer	New Jersey Bureau of Nuclear Engineering
Peg Pinard	former Mayor, City of San Luis Obispo	Not identified
Philip	Not identified	Riverkeeper
Robert	Not identified	Ohio Department of Health
Robert Tarr	Sr. Engineer	Exelon
Sandy Exelby	Not identified	League of Women Voters of Capistrano Beach
Sharon Hoffman	Not identified	Not identified
Steven Hamrick	Principal Attorney	Florida Power & Light Company

Expressed an Interest in the Meeting But Did Not Indicate They Were on the Phone (contd)		
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