

POLICY ISSUE

(NOTATION VOTE)

September 9, 2011

SECY-11-0124

FOR: The Commissioners

FROM: R. W. Borchardt
Executive Director for Operations

SUBJECT: RECOMMENDED ACTIONS TO BE TAKEN WITHOUT DELAY FROM
THE NEAR-TERM TASK FORCE REPORT

PURPOSE:

The purpose of this paper is to provide, for Commission consideration, the recommendations of the U. S. Nuclear Regulatory Commission (NRC) staff, regarding those Near-Term Task Force (NTTF) recommendations that can and, in the staff's judgment, should be initiated, in part or in whole, without delay.

In the Commission notation vote paper due on October 3, 2011, the staff plans to provide the prioritization of the NTTF recommendations to (1) reflect regulatory actions to be taken by the staff in response to the Fukushima lessons learned; (2) identify implementation challenges; (3) include technical and regulatory bases for the prioritization; (4) identify additional recommendations, if any; and (5) include a schedule and milestones with recommendations for appropriate stakeholder engagement and involvement of the Advisory Committee for Reactor Safeguards (ACRS).

BACKGROUND:

The NTTF was established to complete the near-term review required by the Chairman's tasking memorandum of March 23, 2011 (COMGBJ-11-0002). In SECY-11-0093, "Near-Term Report and Recommendations for Agency Actions Following the Events in Japan," dated July 12, 2011, the NTTF provided its recommendations to the Commission. The staff requirements memorandum (SRM) for SECY-11-0093, dated August 19, 2011, directed the staff, by September 9, 2011, to "identify and make recommendations regarding any NTTF recommendations that can, and in the staff's judgment, should be implemented, in part or in whole, without unnecessary delay."

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DISCUSSION:

As directed by SRM-SECY-11-0093, the staff reviewed the NTTF recommendations within the context of the NRC's existing framework and considered the various regulatory vehicles available to the NRC to implement the recommendations. This review was conducted by an ad hoc team consisting of NRC senior management representatives and technical experts. The staff determined the near-term regulatory actions based on its judgment of the potential and relative safety enhancement of each of the recommendations. Additionally, the staff developed this paper by focusing on those NTTF recommendations that can, and in the staff's judgment, should be initiated without delay in whole or in part. This is a subset of the total NTTF recommendations. The staff initially focused on Recommendations 2, 4, 5, 7, 8 and 9, because the other recommendations proposed longer-term reviews by the NRC staff. The staff believes that all the NTTF's overarching recommendations, if adopted, would enhance safety and the staff agrees with moving forward with each of these recommendations. As such, the staff will continue to evaluate approaches to implement all other NTTF recommendations. The process used by the staff to identify near-term actions should not be interpreted as a lack of support for other NTTF recommendations; prioritization is necessary to better manage the work and resources discussed below.

To further inform this process, the staff sought external stakeholder feedback regarding the NTTF recommendations that stakeholders consider to be most important and that the NRC should undertake in the near-term. To accomplish this, the NRC staff conducted a public meeting on August 31, 2011, to discuss the six NTTF recommendations under consideration for inclusion in this paper. The meeting minutes and transcript are available in the Agencywide Documents Access and Management System (ADAMS) at ML112490382. In addition, written stakeholder comments were received and are available in ADAMS at ML11249A161. The stakeholder panelists expressed a desire for stakeholder involvement in the regulatory process going forward regardless of the regulatory vehicle used. Additionally, the industry, the Federal Emergency Management Agency, and nongovernmental participants agreed in concept with the six recommendations discussed at the meeting, although various viewpoints emerged concerning the pace of implementation and associated regulatory vehicles.

To determine and recommend near-term regulatory actions that can and should be initiated without delay, the staff considered whether any of the NTTF recommendations identified an imminent hazard to public health and safety. The staff agrees with the NTTF that none of the recommendations rise to this level. While the staff recognizes that the NTTF raises important issues for consideration, it does not have sufficient resources to initiate actions on all recommendations in the near-term. The staff identified a subset of actions that the staff concludes has the greatest potential for safety improvement in the near-term. The remaining recommendations will be evaluated and prioritized, along with this subset, as part of the notation vote paper due on October 3, 2011.

The near-term actions identified are the following:

- 2.1 Seismic and flood hazard reevaluations
- 2.3 Seismic and flood walkdowns
- 4.1 Station blackout regulatory actions

- 4.2 Equipment covered under Title 10 of the *Code of Federal Regulations* (10 CFR) 50.54(hh)(2)
- 5.1 Reliable hardened vents for Mark I containments
- 8 Strengthening and integration of emergency operating procedures, severe accident management guidelines, and extensive damage mitigation guidelines
- 9.3 Emergency preparedness regulatory actions

In addition, the staff provided a discussion in the enclosure of NTTF Recommendation 9.4 regarding the modernization of the Emergency Response Data System (ERDS). This discussion provides a status of ongoing industry actions in this area. The staff concluded that additional regulatory action is not necessary at this time to ensure implementation of the ERDS modernization.

The staff concluded that additional review is needed to identify specific regulatory actions related to NTTF Recommendation 7 regarding enhanced spent fuel pool makeup capacity and instrumentation for spent fuel pools. For example, the resolution strategy for Recommendation 2.1 may influence the seismic qualification of potential instrumentation for spent fuel pools.

Relative to Recommendations 4.2 and 5.1, the staff is proposing to issue Orders that would redefine the level of protection of public health and safety that should be regarded as adequate. While the basis for the staff's recommendation is provided in the enclosure, the supporting rationale for these Orders will be more fully developed as the technical and regulatory basis is formulated. For the remaining recommendations discussed in this paper, the staff is proposing initiating this subset of actions as safety improvements. As such, the final regulatory action taken will depend on Commission direction, the supporting basis, and whether the applicable action is supportable under agency procedures and applicable backfitting requirements, including the potential to redefine what level of protection of public health and safety should be regarded as adequate.

For all the NTTF recommendations identified as potential near-term actions, the staff performed a more focused assessment to further define the regulatory activities that would be required, and to gain a sense of the resource impacts that could be incurred. This process, while principally centered on safety, gave consideration to the staff's estimate of the current supporting regulatory basis, the need for stakeholder engagement, and technical and scheduler dependencies (i.e., practical feasibility of undertaking action immediately). Enclosed are the assessments for each of the NTTF recommendations the staff proposes can and should be initiated without delay.

In general, the NTTF identified a specific regulatory vehicle (e.g., Order or rulemaking) for each recommendation. Initially, the staff assessed each recommendation independent of the regulatory vehicle proposed by the NTTF. This allowed the staff to determine the actions that should be taken to assess, develop, or complete the supporting technical and regulatory bases. In many cases, external stakeholder engagement is recommended to inform these efforts so that the regulatory action and licensee actions taken effectively resolve the identified issues and implementation challenges are identified in advance. In developing the proposed regulatory

vehicle for each staff recommendation in the enclosure, the staff considered the wide range of regulatory tools available. As discussed above, the staff recommends issuance of Orders as the appropriate regulatory vehicle in those cases where the staff believes that sufficient basis exists to support the initiation of the development of new requirements in the near-term to redefine what level of protection of public health and safety should be regarded as adequate. The technical and regulatory basis for these Orders will be fully established as the Orders are developed. In cases where the staff determined that more information is required before taking additional regulatory action, the staff recommends issuance of requests for information pursuant to 10 CFR 50.54(f). In the remaining cases, the staff proposes to initiate rulemaking.

While not explicitly stated in the enclosed recommendations, the staff will evaluate licensee responses, document staff reviews, and oversee licensee implementation through inspections, consistent with our well-established regulatory processes.

The staff agrees with the NTTF assessment of the approach that should be taken for Watts Bar Unit 2 and Bellefonte Units 1 and 2. Those operating license reviews and the licensing itself should include all of the recommended regulatory actions and rule changes that have been completed at the time of licensing. Any additional rule changes would be imposed on the plants in the same manner as for other operating reactors. With regard to near-term combined license reviews, the staff discusses options in SECY-11-0110, "Staff Statement In Support of the Uncontested Hearing for Issuance of Combined Licenses and Limited Work Authorizations for Vogtle Electric Generating Plant, Units 3 and 4 (Docket Nos. 52-025 and 52-026), dated August 9, 2011, and SECY-11-0115, "Staff Statement in Support of the Uncontested Hearing for Issuance of Combined Licenses for the Virgil C. Summer Nuclear Station, Units 2 and 3 (Docket Nos. 52-027 and 52-028)," dated August 19, 2011.

The remainder of the NTTF recommendations, with the exception of NTTF Recommendation 1 as directed by the Commission, will be evaluated further in the notation vote paper due on October 3, 2011. Included in that evaluation will be any elements of the NTTF recommendations that were evaluated as part of the short-term effort and were concluded to be longer-term regulatory actions (e.g., NTTF Recommendation 2.2). Within schedule constraints and practical limitations given the limited understanding of the ultimate regulatory action that might be taken, the staff will provide its estimate for the supporting schedules and milestones with recommendations for appropriate stakeholder engagement and involvement of the ACRS in the notation vote paper due on October 3, 2011.

RECOMMENDATIONS:

The staff recommends that the Commission provide direction to the staff to take the actions as described in the enclosure. The enclosure provides further description of each recommendation discussed above.

RESOURCES:

For each of the recommended near-term actions, the staff performed an initial assessment to identify the skill sets, applicable organizations, and estimated resources that are needed to support the actions. There will be resource impacts associated with the recommended actions. The notation paper due on October 3, 2011, will provide a further discussion of the resources needed to accomplish the activities proposed in this paper, and staff activities that may be delayed or deferred as a result.

COORDINATION:

The Office of the General Counsel has reviewed this paper and has no legal objection. The Office of the Chief Financial Officer has reviewed this paper for resource implications and has concurred.

/RA/

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Enclosure: Staff Assessment of Near-Term
Task Force Recommendations

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