



NUCLEAR ENERGY INSTITUTE

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August 31, 2011

Mr. John D. Kinneman
Director
Division of Fuel Cycle Safety and Safeguards
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Subject: Summary of Industry Comments as Discussed During August 18-19, 2011 NRC Public Meeting on Fuel Cycle Oversight Program

Project Number: 689

Dear Mr. Kinneman:

On behalf of the fuel cycle industry, the Nuclear Energy Institute (NEI)¹ submits the following general comments for your staff's consideration as it prepares a status paper to be forwarded to the Commission in late October on staff efforts to develop an enhanced fuel cycle oversight program (FCOP).

We very much appreciate the informative and open discussions that took place under your leadership during the recent NRC FCOP public meeting held on August 18-19, 2011. We believe that such constructive engagement through open dialogue coupled with leadership by key decision makers is critical to identifying viable enhancements to the U.S. Nuclear Regulatory Commission's (NRC) current oversight process for fuel facilities. In that regard, we look forward to participating in the November 1, 2011 Commission briefing on this topic and plan to attend other relevant NRC public meetings as well, e.g., Advisory Committee on Reactor Safeguards.

¹ NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. 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, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

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During the closing remarks portion of the FCOP public meeting, we offered the following general comments on key elements of the FCOP for the staff's consideration. We trust the staff will find them useful as it prepares the staff paper for Commission review and approval.

FCOP Framework

Industry understands that the staff plans to recommend to the Commission that it proceed with the framework version that includes, among other features, a significance determination process and action matrix. Generally, we agree with the framework's concepts, but it should be recognized that such a "revolutionary rather than evolutionary" approach to enhancing the current process does not appear consistent with the Commission's earlier direction to the staff to make "modest adjustments to the existing oversight program to enhance its effectiveness and efficiency." This approach will also require significant resource investments by both the NRC and industry at a time of budget constraints. As such, the alternative framework presented by the staff could also be acceptable to industry since it represents a more evolutionary approach to enhancing the current oversight process that could likely be implemented within existing, or with a minimal increase in, both NRC and licensee resources.

Performance Deficiency Definition

As you are aware, the industry continues to express significant concerns with the staff's proposed definition of performance deficiency (e.g., disincentive for self-imposed standards) and had, in 2009, submitted an industry-proposed definition for the staff's consideration. While we appreciate the candid dialogue on this matter during the meeting, we continue to prefer our version as captured on NRC's meeting slide 10 and were very pleased to learn that you are willing to consider industry's version as you further consult with your internal stakeholders on this important matter.

Corrective Action Program (CAP)

This program element is one where the NRC and industry are essentially aligned. Specifically, both parties acknowledge that there are advantages to the NRC recognizing, through the inspection process, that an effective and fully implemented licensee CAP could be used to disposition NRC findings of low-risk safety significance. During the meeting, industry representatives stated that the industry is willing to generate a draft CAP guidance document for NRC endorsement assuming that the Commission approves the staff's recommended approach, and resources are allocated and available for the staff to proceed on the FCOP, or some alternative approach that includes a CAP element.

Significance Determination Process

Based on the information presented, the industry generally supports the "Type 3-Deterministic" approach to the significance determination process; however, more discussion on this critical aspect of the FCOP is needed since it was new concept for discussion during the public meeting.

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Cornerstones

As stated during the meeting, this appears to be an area of significant concerns relative to transparency and stakeholder understanding. Specifically, the industry is concerned that stakeholder communication will be negatively impacted by the use of certain terminology (e.g., accident sequence initiators), thereby creating misunderstandings and confusion by facility workers, clients and the public. Such an outcome is in direct conflict with one of the Commission's stated goals. We also request that the staff seriously consider eliminating the color coding system in the action matrix (e.g., green, white) and instead rely solely on the corresponding descriptive terms (e.g., very low, low safety significance). We believe that there are inherent communication vulnerabilities associated with using the color coding system since the risk profiles of an operating reactor and an operating fuel facility are not comparable, and, as such, the color coded system could become a source of unnecessary confusion by stakeholders given the relatively low safety and security profile of operating fuel facilities.

Finally, the industry has repeatedly stated and continues to believe that incremental ("evolutionary and not revolutionary") changes or enhancements to the current fuel cycle oversight process are achievable within existing available NRC and industry resources. Such an approach could be pursued in lieu of any holistic overhaul of the current oversight program that will require significant investment by both the NRC and industry in the absence of an identified safety issue or concern.

Thank you for the opportunity to submit these summary comments for the record. Again, we appreciated the open meeting dialogue and look forward to future engagements on this topic. If you have any questions on this matter, you may contact me or Andrew Mauer of my staff (202-738-8018; anm@nei.org).

Sincerely,



Janet R. Schlueter

c: Mr. Anthony T. Gody, Jr., Region II/DFFI, NRC
Dr. Said Abdel-khalik, Chair, Advisory Committee on Reactor Safeguards, NRC
Mr. Edwin M. Hackett, Advisory Committee on Reactor Safeguards, NRC