

December 8, 2011

MEMORANDUM TO: Amy E. Cabbage, Chief  
Policy Branch  
Division of Advanced Reactors and Rulemaking  
Office of New Reactors

FROM: R. Frederick Schofer, Project Manager */RA/*  
Policy Branch  
Division of Advanced Reactors and Rulemaking  
Office of New Reactors

SUBJECT: SUMMARY OF NOVEMBER 9, 2011, PUBLIC MEETING WITH  
INDUSTRY'S NEW PLANT WORKING GROUP ON COMBINED  
LICENSE APPLICATIONS

On November 9, 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. ML112860082. 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. NRO Application Reviews, Budgets and Schedules Update
2. Changes During Construction Update
3. Inspection, Test, Analysis and Acceptance Criteria (ITAAC) Maintenance Final Rule Update
4. Construction Reactor Oversight Process (cROP) Assessment Program Update
5. Proposed Change to Enforcement Policy During Construction Update
6. Functional Arrangement ITAAC

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

## Discussion Topics:

**NRO Application Reviews, Budgets and Schedules Update (D. Matthews)**

Mr. David B. Matthews, Director of NRO/DNRL, announced the recent updated new reactor licensing schedule information on the NRC public website. The licensing schedule information is updated by the 10<sup>th</sup> of each month to reflect changes in application submittal schedules. Combined license (COL) related line items include the expected four-month Commission review associated with the mandatory hearing process. In addition, Mr. Matthews informed the meeting attendees that the NRC has begun the Fiscal Year (FY) 2014 budget development process. To facilitate estimating resource and budget needs, the NRC issues a regulatory issue summary to request applicants and potential applicants to voluntarily submit information to the NRC on their future plans for submittal of new reactor licensing applications or permits, amendments, topical reports, application revisions, construction activities, operator training, and pre-construction activities including construction plans and schedules for fabrication of modules and large components submittals. The information received will assist the NRC in allocating its FY 2014 resources for acceptance review, anticipated licensing actions, and inspection support. Mr. Matthews stressed that whenever there is a material change in a licensee's plan there is value for that licensee to inform the NRC of the changes as the agency wants to be in a position to support licensee planned activities that are underway. He emphasized that there is a great advantage in keeping the NRC informed of applicant or potential applicant plans and to provide this information as soon as it is known and not wait for the regulatory issue summary request.

Mr. Matthews also identified significant NRC accomplishments that occurred during this quarter, which included the Commission affirmation of a final rule amending the U.S. Advanced Boiling Water Reactor Aircraft Impact Design Certification amendment final rule and the submittal of the AP1000 Design Certification Amendment final rule to the commission for a final decision. In addition, the mandatory hearings were completed for both the Vogtle and Summer applications, which is one of the final steps of the licensing process. The Commission decision on the Vogtle mandatory hearing is expected in mid-December 2011 and a decision on the Summer hearing is expected approximately two weeks later. Mr. Matthews added that if the Commission has not affirmed the final rule of the AP1000 amended design at this time the decision to issue the mandatory hearing order will be held in abeyance until the AP1000 design certification amendment final rule is affirmed.

In responding to a question regarding how Fukushima items will apply to new plants, Mr. Matthews explained that the proposed changes to the AP1000 certified design and the NRC's review of those changes were nearly completed before the events at Fukushima. The Commission created a Near-Term Task Force (NTTF) to conduct an analysis of the lessons that can be learned from the event. The NTTF issued a report (ADAMS Accession No. ML111861807) evaluating currently available technical and operational information from the events, and presented a set of recommendations to the Commission. In this report (refer to pages 71-72), the NTTF supports completing the AP1000 design certification rulemaking activity without delay.

For new reactor designs currently under review, safety issues should be resolved at the design stage, to the extent practical. Consistent with the Commission policy encouraging standardization, it would be prudent to implement safety enhancements prior to certification or

design certification renewal. As such, the staff intends to begin interactions with new reactor stakeholders in the near term to allow sufficient opportunity for design certification applicants and design certification renewal applicants to address recommended design-related safety enhancements prior to completion of the staff's review. It should be noted that imposition of new requirements as part of a design certification renewal is governed by Title 10 of the *Code of Federal Regulations* (10 CFR) 52.59. The staff will encourage reactor vendors to provide enhanced safety features and safety margins consistent with the Commission policy on advanced reactors. With regard to near-term COL 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.

If the Commission decides that license conditions to implement Fukushima NTTF recommendations are necessary to support issuance of the Vogtle COLs, the staff agrees that such conditions may be viable regulatory tools. The NTTF recommendations relevant to COLAs are directed to a relatively narrow set of issues, which are not already addressed with the scope of the AP1000 design. The relevant NTTF recommendations relate to enhancing onsite emergency response capability and emergency planning. Accordingly, any resulting conditions would be focused on these particular considerations. However, as is evident in the Staff's response to the Commission in SECY-11-0137 (ADAMS No. ML11272A111) regarding which Fukushima-related recommendations to prioritize, the specific nature of the enhancements that would result from these recommendations is not yet determined. For example, the staff paper indicated that stakeholder involvement would be an important prerequisite to developing the content of the rulemakings that it recommended the Commission undertake. The staff believes that once the parameters of the recommendations are established, development of a license condition could be relatively straightforward. Without those objective parameters, imposing a broad "placeholder" license condition is not compatible with the Commission's precedent for license conditions.

In addition, Mr. Matthews informed the meeting attendees of the proposed reorganization of divisions within NRO, effective December 1, 2011. He explained that the proposed organizational changes would position to continue to fulfill its mission while addressing future challenges of reduced resources, changing workload, increased focus on streamlining and centralization of corporate functions. For example, DNRL will assume responsibility for the environmental project management for large, light-water reactors. The Division of Site and Environmental Reviews (DSER) will continue to have responsibility for the environmental technical reviews. In addition, Division of Advanced Reactors and Rulemaking (DARR) is a new division headed by Mike Mayfield. This division combines the environmental project management of advanced reactor designs and the policy development, rulemaking, and guidance for all new reactor licensing of large light water reactors and advanced reactors.

**Changes During Construction Update (E. Libby)**

Mr. Earl R. Libby (NRO/DNRL/NRGA) provided an overview of the status of this effort and identified the four problem statements that are being addressed by this topic:

1. Determine the activities, if any that can be performed by licensees during construction while the NRC is reviewing 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 10 CFR 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 (construction & operation).

Mr. Libby continued by stating that for action statement 1 the NRC has made good progress in developing this alternative process with the majority of issues addressed. The preliminary amendment request (PAR) process will be contained in interim staff guidance (ISG) document COL-ISG-025, "Changes during Construction under Part 52." This document is undergoing internal NRC review before the document is published in the *Federal Register (FR)* for use and comment with a 75-day public comment period. The NRC discussed previous drafts of this document in past Category 2 public meetings.

For action statement 2, the consensus position on enforcement discretion available during the construction phase was presented to NRO management and the additional efforts to respond to SRM-SECY-09-0190 (ADAMS Accession No. ML102390327) is the subject of a later presentation.

For action statements 3 and 4, work is in progress on establishing the risk –informed regulatory guidance for new reactors. A public meeting is scheduled for November 15, 2011 (ADAMS Accession No. ML113060052) to discuss NRC comments on NEI 96-07, Appendix C, "Guideline for Implementation of Change Control Processes for New Nuclear Plants Licensed under 10 CFR Part 52, Draft Revision 0C." (ADAMS Accession No. ML113220425). In addition, the NEI submittal letter (ADAMS Accession No. ML113220425) that transmitted the draft NEI document for NRC review contained seven additional subjects for discussion associated with NEI 96-07, Appendix C.

**ITAAC Maintenance Final Rule Update (E. Libby)**

Mr. Earl R. Libby stated that the proposed rulemaking was published in the *Federal Register (FR)* on Friday, May 13, 2011 (76 FR 27925). The public comment period ended July 27, 2011. The related guidance document draft guide DG-1250 was also published in the *FR* on Friday, May 13, 2011 (76 FR 2794) with a public comment period that ended Monday, July 25, 2011. The NRC has reviewed the comments received and is preparing the final rulemaking package. The final rule and the regulatory guide will be presented to Advisory Committee on Reactor

Safeguards Full Committee on December 1, 2011 and to the Commission during the first calendar quarter of 2012.

### **Construction Reactor Oversight Process Assessment Program Update (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 oversight and assessment of new commercial reactor construction. Work continues on the construction significance determination process (SDP) to work on hypothetical and actual recent construction findings using the SDP to eliminate ambiguities in the process. Ms. Dudes stated that the cROP pilot program will be a 12-month effort beginning on January 1, 2012. Procedures developed for use during the pilot program will be available on ADAMS and on the NRC cROP webpage (<http://www.nrc.gov/reactors/new-reactors/oversight/crop.html>).

### **Proposed Change to Enforcement Policy During Construction Update (C. Faria-Ocasio)**

Ms. Carolyn Faria-Ocasio, Enforcement Branch (EB), Office of Enforcement (OE/EB), was introduced to provide an update on the NRC Enforcement Policy (Policy) that the NRC plans to use to consider potential enforcement actions in response to apparent violations of requirements. A Federal Register Notice published on August 9, 2011 (76 FR 48919), announced that the NRC was reevaluating construction-related topics in the Policy and was soliciting comments from the public on revisions recommended by the staff. The proposed changes would clarify sections that had not explicitly included construction activities, revise how the NRC dispositions non-cited violations (NCVs), and both clarify and revise how the NRC expects to exercise enforcement discretion at construction sites. The public comment period ended on September 8, 2011. The staff discusses proposed changes to the Policy in SECY-11-0155 (ADAMS Accession No. ML11293A034), "Proposed Changes to the Enforcement Policy Associated with Construction Activities," dated November 1, 2011. This paper describes background and bases for the proposed policy changes and considered development of a notices of enforcement discretion (NOED) like process as a means of maintaining safety during three construction periods and findings while avoiding unnecessary regulatory burden. The three construction periods are: (1) from the issuance of a construction permit pursuant to 10 CFR 50.50, "Issuance of Licenses and Construction Permits," but before the 10 CFR 50.57 operations finding, (2) from the issuance of a COL but before the 10 CFR 52.103(g) finding, and (3) after the issuance of a Limited Work Authorization (LWA).

The staff considered whether the development of an analogous NOED-like process had merit as a means of maintaining safety during these construction periods and for the findings described above while avoiding unnecessary regulatory burden. The staff determined that an NOED-like process would either not apply to these types of findings or would be of limited benefit. The staff's conclusion is based, in part, on factors such as the limited use of LWAs, the fact that prior approval from the NRC is not required in the circumstances described above, and issues during construction, in most cases, are within the licensee's control to correct. In fact, the staff and regulated industry representatives, to date, were unable to identify plausible scenarios in which an NOED or NOED-like process would be appropriate during construction activities. Ms. Faria-Ocasio added that if either the industry or the NRC identifies a need for an NOED-like process, this decision will be reconsidered. Recommended policy changes identified in SECY 11-0155 include changes to improve consistency, to add language and guidance for

exercising enforcement discretion for non-cited violations, and to revise Policy sections on enforcement discretion.

**Functional Arrangement ITAAC – (L. Dudes)**

Ms. Laura Dudes expressed that there have been differing views, with respect to the required scope of inspection ranging from inspecting only the structures, systems, and components (SSCs) provided in the Tier 1 figures and tables to inspecting all SSCs necessary for the system to perform the function(s) described in the design description, whether or not shown in the Tier 1 figures and tables. The NRC position is the functional arrangement ITAAC include those SSCs contained in Tier 1 design descriptions, Tier 1 figures, and Tier 1 tables. The functional arrangement ITAAC can be verified any time after construction is complete and do not have to be performed as part of the formal system turnover process.

Hearing no questions, Mr. Schofer adjourned the meeting.

Enclosure:

1. Attendance List

cc w/encl: See next page

exercising enforcement discretion for non-cited violations, and to revise Policy sections on enforcement discretion.

**Functional Arrangement ITAAC – (L. Dudes)**

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Enclosure:

- 1. Attendance List

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**ADAMS Accession No.: ML113350071-pkg \*via e-mail NRC-001**

OFFICE	PM:NRO/DARR/APOB	LA:NRO/DARR/APOB	BC:NRO/DARR/APOB
NAME	FSchofer	BAbeywickrama*	ACubbage
DATE	12/01/11	12/01/11	12/08/11

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**PUBLIC MEETING WITH INDUSTRY'S NEW PLANT WORKING  
GROUP ON COMBINED LICENSE APPLICATIONS  
November 9, 2011**

**Attendance List**

<b>Name</b>	<b>Organization</b>	<b>Name</b>	<b>Organization</b>
Fred Schofer	NRC/NRO/DNRL	Kenji Arai	Toshiba
David Matthews	NRC/NRO/DNRL	Bob Schrauder	TANE
Earl R. Libby	NRC/NRO/DNRL	Jason Zorn	NEI
Amy Cabbage	NRC/NRO/DNRL	Kati Austgen	NEI
Laura A. Dudes	NRC/NRO/DCIP	Bill Maher	FPL
Carolyn M. Faria	NRC/OE/EB	Brian Johnson	GE-Hitachi
Michael Mayfield	NRC/NRO/ARP	David Harwood	DTE Energy
Russ Bell	NEI	Bob Kitchen	Progress Energy
Gene Grecheck	Dominion	Jack A. Bailey	TVA
Mark Finley	Unistar	Jamie Mallon	PSEG
Greg Gibson	Unistar	Marilyn Kray	Exelon
Sandy Rupprecht	Westinghouse	Charles R. Pierce	SNC
Ron Clary	SCE&G	Mark McBurnett	NINA
Ron Jones	Duke Energy	Frank Gillespie	MNES
Randy Douet	Entergy Nuclear	Steve Frantz	Morgan Lewis
Brian McIntyre	Areva	Steven Dolley	Platts
Rocky Sgarro	PPL	Harrison Akins	US Nuclear Infrastructure Council
<b>Participants Via Teleconference</b>			
Deann Raleigh	Scientech	Russell Bywater	MNES
Tom Clements	Friends of the Earth	Jim Rickio	Greenpeace



DCWG - Combined (All)  
cc:

(Revised 11/16/2011)

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. Besette  
Morgan, Lewis & Bockius LLP  
1111 Pennsylvania Avenue, NW  
Washington, DC 20004

Scott M. Bond  
Manager  
New Generation Development  
Ameren Missouri  
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. Robert E. Sweeney  
IBEX ESI  
4641 Montgomery Avenue  
Suite 350  
Bethesda, MD 20814

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

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

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. Tony Robinson  
AREVA NP, Inc.  
3315 Old Forest Road  
Lynchburg, VA 24501

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

## 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)  
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)  
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)  
jrappe@nuscalepower.com (Jodi Rappe)  
junichi\_uchiyama@mnes-us.com (Junichi Uchiyama)

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.a.giles@dom.com (Mark Giles)  
mark.beaumont@wsms.com (Mark Beaumont)  
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)  
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)

NEI New Reactors Mailing List

(Revised 11/16/2011)

cc:

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

Edward G. Wallace  
Sr. General Manager  
U.S. Programs  
PBMR Pty. Ltd.  
PO Box 16789  
Chattanooga, TN 37416

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

## NEI New Reactors Mailing List

### Email

APH@NEI.org (Adrian Heymer)  
awc@nei.org (Anne W. Cottingham)  
BrinkmCB@westinghouse.com (Charles Brinkman)  
cwaltman@roe.com (C. Waltman)  
david.lewis@pillsburylaw.com (David Lewis)  
ewallace@nuscalepower.com (Ed Wallace)  
jim.riccio@wdc.greenpeace.org (James Riccio)  
Joseph\_Hegner@dom.com (Joseph Hegner)  
KAK@nei.org (Kimberly Keithline)  
kra@nei.org (Katie Austgen)  
KSutton@morganlewis.com (Kathryn M. Sutton)  
kwaugh@impact-net.org (Kenneth O. Waugh)  
Ichandler@morganlewis.com (Lawrence J. Chandler)  
Marc.Brooks@dhs.gov (Marc Brooks)  
maria.webb@pillsburylaw.com (Maria Webb)  
mark.beaumont@wsms.com (Mark Beaumont)  
matias.travieso-diaz@pillsburylaw.com (Matias Travieso-Diaz)  
media@nei.org (Scott Peterson)  
melto1ma@westinghouse.com (Michael Melton)  
mike\_moran@fpl.com (Mike Moran)  
MSF@nei.org (Marvin Fertel)  
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)  
RJB@NEI.org (Russell Bell)  
sabinski@suddenlink.net (Steve A. Bennett)  
sandra.sloan@areva.com (Sandra Sloan)  
sfrantz@morganlewis.com (Stephen P. Frantz)  
stephan.moen@ge.com (Stephan Moen)  
Vanessa.quinn@dhs.gov (Vanessa Quinn)  
Wanda.K.Marshall@dom.com (Wanda K. Marshall)