

March 16, 2012

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/*
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Division of Advanced Reactors and Rulemaking
Office of New Reactors

SUBJECT: SUMMARY OF FEBRUARY 23, 2012, PUBLIC MEETING WITH
INDUSTRY'S NEW PLANT WORKING GROUP ON COMBINED
LICENSE APPLICATIONS

On February 23, 2012, 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 (COL) applications. 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. ML120340196. The following provides a brief summary of the meeting.

Summary

Mr. R. Frederick Schofer, Policy Branch (APOB), Division of Advanced Reactors and Rulemaking (DARR), 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. Applicability and Implementation of Fukushima Near-Term Task Force Recommendations for New and Advanced Reactors
3. Interim Staff Guidance (ISG) on "Impacts of Construction of New Nuclear Power Plants on Operating Units at Multi-Unit Sites," Update
4. Overview of the Digital Instrumentation and Control (I&C) Initiative for mPower
5. Issues Concerning the Integration of Safety and Cyber Reviews
6. Embedded Digital I&C
7. Inspection, Test, Analysis, and Acceptance Criteria (ITAAC) Maintenance Final Rule Update
8. Appendix C to NEI 96-07, "Guidelines for Implementing Part 52 Change Processes," Update

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Discussion Topics:

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

Mr. David B. Matthews, Director of the Division of New Reactor Licensing (NRO/DNRL) acknowledged the significant Title 10 of the *Code of Federal Regulations* (CFR), Part 52 accomplishments that recently occurred, which included the Commission affirmation of the final rules for the U.S. Advanced Boiling Water Reactor Aircraft Impact Design Certification Amendment and the AP1000 Design Certification Amendment. In addition, the mandatory hearings were completed for both the Vogtle and Summer applications, and the Vogtle COLs were issued. Mr. Matthews stated that these accomplishments demonstrate the effectiveness of the Part 52 licensing process and much of the success is due to the positive interactions with this group. As the NRC's attention focuses on construction activities, the ITAAC closure process will be tested and Mr. Matthews expects working through this process will be this group's next big challenge.

Mr. Matthews informed the meeting attendees that the NRC is preparing the Fiscal Year (FY) 2014 budget plan. The information received in response to the regulatory issue summary provided a wide diversity of business plans of the 11 applicants, which is being factored into allocating FY 2014 resources for acceptance review, anticipated licensing actions, and inspection support. Mr. Matthews 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. Mr. Matthews also confirmed that all application reviews are ongoing.

In response to a question regarding the recently issued emergency planning rule implantation schedule for COL licensees, Mr. Matthew responded that the rule provides an option for COL licensees to defer compliance and for COL applicants to amend their applications if their license is not expected to be issued by December 2013.

Applicability and Implementation of Fukushima Near-Term Task Force Recommendations for New and Advanced Reactors (A. Cabbage)

Ms. Amy E. Cabbage, Chief of the Policy Branch (NRO/DARR/APOB) stated that Commission paper SECY-12-0025, "Proposed Orders and Requests for Information in Response to Lessons Learned from Japan's March 11, 2011, Great Tohoku Earthquake and Tsunami," (ADAMS Accession No. ML12039A103) was made publicly available on February 22, 2012. This paper, which is in front of the Commission, proposes to issue three orders – 1) an order requiring development of strategies to deal with beyond-design basis external events resulting in simultaneous loss of all alternating current power and loss of normal access to the ultimate heat sink, 2) an order requiring reliable, hardened vents in Boiling-Water Reactor Mark I and Mark II containments, and 3) an order requiring enhanced spent fuel pool instrumentation. The paper also requests information from COL holders, active and deferred construction permit holders and holders of operating reactor licenses regarding seismic and flooding reevaluations (Recommendation 2.1), seismic and flooding hazard walkdowns (Recommendation 2.3), and a request for licensees to assess their current communications system and equipment under conditions of onsite and offsite damage and prolonged station blackout and perform a staffing study to determine the number and qualifications of staff required to fill all necessary positions in response to a multi-unit event (Recommendation 9.3).

Ms. Cabbage noted that for design certifications and COL applications submitted under 10 CFR Part 52 that are currently under active staff review, the staff plans to assure that the Commission-approved Fukushima actions are addressed prior to certification or licensing.

Interim Staff Guidance on Impacts of Construction of New Nuclear Power Plants on Operating Units at Multi-Unit Sites Update (R. Chazell)

Mr. Russell E. Chazell (NRO/DARR/APOB) stated that DC/COL-ISG-022 is intended to provide guidance to NRC staff reviewers to assess COL applicant compliance with the requirements of 10 CFR 52.79(a)(31). This regulation requires COL applicants intending to construct and operate new nuclear power plants on multi-unit sites to provide, in the COL application, an evaluation of the potential hazards to structures, systems, and components important to safety for the existing operating units resulting from construction activities. DC/COL-ISG-022, "Impacts of Construction of New Nuclear Power Plants on Operating Units at Multi-Unit Sites" was released for public comment in the *Federal Register* (FR) (76 FR 8383) in February 2011 and the comment period ended in May 2011. In responding to questions, Mr. Chazell stated that there were no significant differences between the proposed and final documents and the final document is expected to be issued in late April 2012.

Overview of the Digital I&C Initiative for mPower (T. Bergman)

Mr. Thomas A. Bergman, Director of the Division of Engineering (NRO/DE) was introduced to discuss three topics, all just for awareness. Mr. Bergman opened that the digital I&C initiative is under development and is specific to mPower. However, this topic has the potential for generic applicability for initial certification or licensing or for substantial platform upgrades. Mr. Bergman explained that for highly integrated and complex I&C systems the regulatory reviews of these I&C systems have been a significant challenge from the perspective of both safety demonstration and the amount of resources consumed. In addition, NUREG-0800, Standard Review Plan, Chapter 7, which is the primary agency guidance for these reviews, is adequate; however, improvements could be achieved if lessons learned are applied in a timely manner. Under this initiative, the goals are to improve 1) the safety focus of the reviews by better establishing the level of detail required for licensing, and a clear connection between that information and the applicable regulations and 2) the effectiveness of the reviews by eliminating unnecessary information from being docketed and improving regulatory guidance to eliminate unnecessary requests for additional information.

To accomplish these goals, the initiative framework includes four key elements: restructure the existing guidance, develop an integrated hazards analysis approach, define the scope and level of detail of the information to support the licensing finding, and leverage third-party assessment of safety-system software development processes. Mr. Bergman stated that the agency is developing a design-specific review standard (DSRS) for use in reviewing the mPower design. The staff has identified that the DSRS development and the timing of the projected licensing applications allows for the incorporation of the broad set of I&C lessons learned in addition to other generic improvements in order for the review to focus on the fundamental principles of good I&C design: redundancy, independence, deterministic behavior, and diversity.

Mr. Bergman summarized that this initiative allows the staff to leverage mPower I&C vendor experience with their use of Capability Maturity Model Integration framework for other mission

critical and safety critical applications. It also enables the staff to focus on safety/risk significant areas and establishment of required processes as opposed to ensuring the vendor follows their processes (an inspection function).

Issues Concerning the Integration of Safety and Cyber Reviews (T. Bergman)

Mr. Thomas Bergman noted that the ACRS and staff disagree on the approach to deal with cyber security. The approach recommended by the ACRS contained in their letter, "Draft Final Revision 3 of Regulatory Guide 1.152, "Criteria for use of Computers in Safety Systems of Nuclear Power Plants," (ADAMS Accession No. ML11101A013) prescribes that a finding be made by the staff on the effectiveness of cyber security measures during the licensing review of the design. Mr. Bergman discussed one of the ACRS concerns that during implementation of the cyber program licensees will want to take credit for design features that may not have been reviewed causing the licensee to make design changes, which could have been prevented and may require a license amendment.

The staff understands the Committee's desire to have cyber security design evaluated during licensing reviews. While evaluating the cyber security design during licensing reviews provides a certain level of confidence early, it could generate a false sense of confidence given the evolving nature of cyber-based threats, and may be less effective in the long run when compared to our current performance based approach.

The cyber security rule, 10 CFR 73.54, is a performance-based regulation that focuses on measurable outcomes and defined results rather than prescriptive processes, techniques, procedures, or specific direction on the means for obtaining those results. The strength of the current approach is that it provides the necessary flexibility to address the dynamic nature of the cyber threat. Mr. Bergman also noted that given the constantly evolving nature of cyber-based threats, this affords licensees more flexibility in determining the means for meeting those outcomes. The current approach appropriately places the responsibility of maintaining effective cyber security protection on licensees and applicants. Mr. Bergman added that the staff has responded to the Committee's comments on its approach in its June 2011, letter (ADAMS Accession No. ML111390059).

Embedded Digital I&C (T. Bergman)

Mr. Bergman stated that the NRC is considering whether a generic communication should be issued regarding embedded digital I&C devices. Embedded digital I&C devices are included in a wide array of equipment such as diesel governors, protection relays, and motor control systems and employ complex microprocessor based hardware operating software. Design details for these devices are not included in the application, but appear in construction documents. These devices are typically developed to commercial standards, can contain thousands of lines of code, and may be susceptible to common mode failures since they are likely to be replicated in redundant equipment or systems. Electric Power Research Institute (EPRI) Topical Report (TR)-106439, "Guideline on Evaluation and Acceptance of Commercial Grade Digital Equipment for Nuclear Safety Applications," as accepted by the NRC safety evaluation dated July 17, 1997, goes through the process for commercial dedication for digital I&C equipment.

While the equipment mentioned in this TR is out-of-date, the process could be useful for the evaluation of embedded digital I&C devices. Other related EPRI TRs include:

- TR-107339, "Evaluating Commercial Digital Equipment for High-Integrity Applications: A Supplement to EPRI Report TR-106439,"
- TR-1006842, "Generic Qualification/Dedication of Digital Components,"
- TR-1001452, "Generic Qualification of Commercial Grade Digital Devices: Lessons Learned from Initial Pilots,"
- TR-1003585, "Generic Qualification/Dedication of Digital Components: Lessons Learned Beyond Initial Pilots," and
- TR-1009659, "Generic Qualification and Dedication of Digital Components: Project Status and Lessons Learned."

ITAAC Maintenance Final Rule Update (E. Libby)

Mr. Earl R. Libby (NRO/DARR/APOB) stated that the final rule package was presented to the Office of the Executive Director for Operations on February 17, 2012. The final rule is substantially similar to the proposed rule other than one clarification to 10 CFR 52.99(e)(2) to clarify NRC notices to the public. The final rule is expected to be published in the *Federal Register* in late May 2012, pending Commission approval.

Appendix C to NEI 96-07, "Guidelines for Implementing Part 52 Change Processes," Update

Mr. Libby opened with the notification that DC/COL-ISG-025, "Changes during Construction under 10 CFR Part 52," (ADAMS Accession No. ML111530026) was issued for use and comment in the *Federal Register* (77 FR 1749). The public comment period on this ISG closes on March 26, 2012.

Mr. Libby continued by stating that during the February 14, 2012 public meeting, (ADAMS Accession No. ML120310420) the majority of concerns although staff discussion are ongoing on implementation policy pertaining to screening criteria definition differences between 10 CFR 50.59 and design change rule Section VIII and whether the screening process is adequate for assessing investment protection SSCs changes, regulatory treatment of non-safety systems, pre-operational testing program changes, and Tier 2 supporting information for ITAAC. Mr. Libby stated that the planned next steps are to provide specific language changes to NEI and hold a public meeting to discuss the proposed language changes followed by moving forward with NRC endorsement of NEI 96-07.

Mr. Bergman stated that there is separate regulatory guidance that was issued for designing and implementing digital upgrades to I&C systems. This guidance is contained in NRC Regulatory Issue Summary 2002-22, Use of EPRI/NEI Joint Task force Report, "Guideline on Licensing Digital Upgrades: EPRI TR-102348, Revision 1, NEI 01-01: A Revision of EPRI TR-102348 to Reflect Changes to the 10 CFR 50.59 Rule" (ADAMS Accession No. ML023160044).

Industry identified issues

Mr. Gene Grecheck, Chairman of the NPWG, thanked the NRC staff who travelled to the meeting and those who participated via teleconference for the presentations provided and stated that he had no additional comments or questions. Mr. Schofer added that the next NPWG meeting is planned for June 6, 2012.

Public Comments

Mr. William Freebairn, PLATTS, asked whether the preliminary amendment requests submitted under ISG document DC/COL-ISG-025, "Changes during Construction under Part 52" will be made public. Mr. Libby responded that the submittal of a preliminary amendment request is an elective procedure of the license amendment process and these preliminary amendment requests will be publicly available.

Hearing no further questions, Mr. Schofer adjourned the meeting.

Enclosure:
Attendance List

cc w/encl: See next page

Industry identified issues

Mr. Gene Grecheck, Chairman of the NPWG, thanked the NRC staff who travelled to the meeting and those who participated via teleconference for the presentations provided and stated that he had no additional comments or questions. Mr. Schofer added that the next NPWG meeting is planned for June 6, 2012.

Public Comments

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ADAMS Accession No.: ML120670264 (pkg) *via e-mail NRC-001

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**Public Meeting with Industry's New Plant Working
Group on Combined License Applications
February 23, 2012**

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David B. Matthews	NRC/NRO/DNRL	Anne Cottingham	NEI
Earl R. Libby	NRC/NRO/DARR	Steve Aitken	INPO
Amy E. Cabbage	NRC/NRO/DARR	Bill Maher	FPL
Russell E. Chazell	NRC/NRO/DARR	Vijay Nilekani	NEI
Thomas A. Bergman	NRC/NRO/DE	Kati Austgen	NEI
Jerry N. Wilson	NRC/NRO/DARR	Kenji Arai	Toshiba
Michael E. Mayfield	NRC/NRO/DARR	Robert Schrauder	Toshiba America Nuclear Energy
Russ Bell	NEI	Rocky Sgarro	PPL
Al Paglia	SCE&G	Brian McIntyre	Areva
Mark McBurnett	NINA	Joseph Tapia	MNES
Marilyn Kray	Exelon	Chris Fallon	Duke Energy
John Elnitshy	Progress Energy	Greg Gibson	Unistar
Charles R. Pierce	Southern Nuclear	Doug Walters	NEI
Pete Ivey	Southern Nuclear	Gene Grecheck	Dominion
Patricia Campbell	GEH	Bill Freebairn	PLATTS
Participants Via Teleconference			
Laura A. Dudes	NRC/NRO/DCIP	Tom Retson	Blue Castle Holdings
Eddie Grant	Excel Services	Chad Boyer	Congressman Simpson's staff
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Enclosure

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(Revised 02/17/2012)

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