

June 29, 2016

The Honorable Ron Wyden  
United States Senate  
Washington, DC 20510

Dear Senator Wyden:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to a May 13, 2016, letter from you and a number of your colleagues. In your letter, you urge the Commission to reject the NRC staff's recommendation that the agency initiate an expedited rulemaking to clarify that only licensees can make final access authorization determinations. The staff had provided its recommendation to the Commission in SECY-15-0149, "Role of Third-Party Arbitrators in Licensee Access Authorization and Fitness-For-Duty Determinations at Nuclear Power Plants." The Commission has now completed its deliberations on the matter and I am writing to advise you of the Commission's decision.

The Commission has approved a modified version of the staff's proposal to proceed with the rulemaking process to further explore the issues raised in SECY-15-0149 and to consider the divergent comments offered by labor organizations and licensees. Specifically, the Commission directed the staff as it proceeds with this rulemaking to do the following:

- Endeavor to ensure that any proposed revisions to NRC regulations are as narrow in scope as is necessary to ensure the public safety and security;
- Not unnecessarily preclude arbitration outright but consider how the NRC's goals can be achieved while still allowing redressability with respect to a licensee's access determinations;
- Make specific outreach to potentially affected labor organizations regarding the proposed content and timeframe for the proposed rule, in addition to the NRC staff's normal outreach efforts during rulemaking;
- Ensure that, in any further rule on access authorizations and fitness-for-duty determinations at nuclear power plants, there is a reasonable and balanced accommodation of interests in access determinations;
- Provide a robust appeal process for workers whose access authorization is denied or revoked;
- Address third-party review of fitness-for-duty determinations in the same rulemaking; and
- Maintain awareness of ongoing arbitration of access authorization determinations so that orders can be prepared in any case in which Commission intervention is necessary to ensure the safety and security of a nuclear power plant.

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The Commission's direction to the staff will ensure that the views of all affected parties will be fully considered. If you need any additional information, please contact me or Eugene Dacus, Director of the Office of Congressional Affairs, at (301) 415-1776.

Sincerely,

/RA/

Stephen G. Burns

**Identical letters sent to:**

The Honorable Ron Wyden  
United States Senate  
Washington, DC 20510

The Honorable Barbara A. Mikulski  
United States Senate  
Washington, DC 20510

The Honorable Patty Murray  
United States Senate  
Washington, DC 20510

The Honorable Jack Reed  
United States Senate  
Washington, DC 20510

The Honorable Maria Cantwell  
United States Senate  
Washington, DC 20510

The Honorable Benjamin L. Cardin  
United States Senate  
Washington, DC 20510

The Honorable Patrick J. Leahy  
United States Senate  
Washington, DC 20510

The Honorable Barbara Boxer  
United States Senate  
Washington, DC 20510

The Honorable Richard J. Durbin  
United States Senate  
Washington, DC 20510

The Honorable Charles E. Schumer  
United States Senate  
Washington, DC 20510

The Honorable Robert Menendez  
United States Senate  
Washington, DC 20510

The Honorable Bernard Sanders  
United States Senate  
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The Honorable Sherrod Brown  
United States Senate  
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The Honorable Jon Tester  
United States Senate  
Washington, DC 20510

The Honorable Jeffrey A. Merkley  
United States Senate  
Washington, DC 20510

The Honorable Kirsten Gillibrand  
United States Senate  
Washington, DC 20510

The Honorable Richard Blumenthal  
United States Senate  
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The Honorable Tammy Baldwin  
United States Senate  
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The Honorable Mazie Hirono  
United States Senate  
Washington, DC 20510

The Honorable Elizabeth Warren  
United States Senate  
Washington, DC 20510

The Honorable Cory A. Booker  
United States Senate  
Washington, DC 20510

The Honorable Sheldon Whitehouse  
United States Senate  
Washington, DC 20510

The Honorable Tom Udall  
United States Senate  
Washington, DC 20510

The Honorable Michael F. Bennet  
United States Senate  
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The Honorable Al Franken  
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The Honorable Brian Schatz  
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The Honorable Christopher Murphy  
United States Senate  
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The Honorable Martin Heinrich  
United States Senate  
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The Honorable Edward J. Markey  
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Washington, DC 20510

The Honorable Gary Peters  
United States Senate  
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