



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
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May 18, 2021

MEMORANDUM TO: Christopher M. Regan, Acting Director  
Division of Fuel Management  
Office of Nuclear Material Safety  
and Safeguards

THRU: Jacob I. Zimmerman, Chief  
Fuel Facility Licensing Branch  
Division of Fuel Management  
Office of Nuclear Material Safety  
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FROM: Osiris Siurano-Perez, Project Manager  
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SUBJECT: SUMMARY OF MARCH 24-25, 2021, FUEL FACILITY  
STAKEHOLDER PUBLIC MEETING

The staff of the U.S. Nuclear Regulatory Commission (NRC) conducted a virtual WebEx meeting with representatives of the Nuclear Energy Institute (NEI), fuel cycle industry, and members of the public on March 24-25, 2021. The purpose of this Observation Meeting (formerly Category 2) was to discuss the status of several initiatives involving the fuel cycle industry. Topics discussed during the meeting included the resolution of action items from the October 22-23, 2020, meeting; updates to the integrated schedule and its supplement; status of Accident Tolerant Fuel and Advanced Reactor Activities; status of the Smarter Licensing Program; COVID Lessons Learned and Beyond; status of the Fuel Cycle Smarter Inspection Program; COVID-19 Public Health Emergency Oversight Activities Assessment; Operating Experience Program; Industry Position regarding Safety Margin: Dispositioning Degraded or Failed Management Measures Above and Beyond Regulatory Requirements, and Meeting Performance Criteria; Current and Future Non-fee Billable Activities; Issues of Low Safety Significance; Security for Facilities Possessing Category II Special Nuclear Material; and discussion of the Division of Fuel Management (DFM) Strategic Priorities.

The public meeting notice with the agenda topics, the meeting presentations, the list of attendees, the fuel cycle integrated schedule, and its supplement are available in the Agencywide Documents Access and Management System (ADAMS) under Accession No. [ML21082A392](#). No regulatory decisions or commitments were made during the meeting.

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### **March 24, 2021. Meeting Session**

The activities started with the NRC staff discussing the meeting's category and purpose, and the instructions and logistics for conducting it. Opening remarks by Andrea Kock, Director of DFM, and Janet Schlueter, Senior Director, Fuel and Radiation Safety, NEI followed.

After the opening remarks, the NRC staff started the discussions by presenting the NRC staff resolution of the six action items resulting from the October 22-23, 2020, public meeting on Cumulative Effects of Regulations (now known as the Fuel Facility Stakeholders Public Meeting). The action items were the following:

- Action Item 1:
  - Update the Integrated Schedule chart and Supplement to:
    - reflect future plans for the Part 61 rulemaking
    - include the status of the guidance for the Cat II facilities
  - Consider whether other topics need to be added to the regulatory activities list

In regard to the Part 61 rulemaking, the NRC staff is currently implementing two Commission-directed rulemaking activities, which are in different stages. These are the Title 10 of the *Code of Federal Regulations* (10 CFR) Part 61 low-level radioactive waste disposal rule, and the Development of Regulatory Basis for Greater-Than-Class-C waste rule. Both would amend 10 CFR Part 61 and have related proposed requirements. The NRC staff recommended to the Commission to consolidate and integrate both rulemakings into one proposed rule in SECY-20-0098. The staff is awaiting Commission direction on its recommendation, and therefore, future plans are still to be determined. Therefore, this portion of the action item will remain open.

Regarding the guidance for the Cat II facilities, the NRC staff revised both the integrated schedule chart and its supplement to include this information. The staff will continue to update the information in the future as needed. Since, as requested by NEI and nuclear fuel cycle industry representatives, the information is now included in both documents, and subsequently, posted to the NRC Fuel Facilities Stakeholders Public Meeting Web site, this portion of the action item is closed.

Regarding topics to be added to the regulatory activities list, the staff looked into the regulatory activities currently under consideration/in process and identified additional activities with an impact on nuclear fuel facilities that should be included in the list (see the "Integrated Schedule Chart and Supplement Updates" discussion below). This action item is closed.

- Action Item 2:
  - NRC Covid-19 response, Remote/On-site Inspections Feedback and Lessons Learned

Continue to provide periodic updates and communicate how NRC will move forward during Phase B of the COVID-19 public health emergency (PHE) Oversight Activities

Assessment. Phase B will gather additional feedback on a hybrid approach for inspections (remote plus on-site inspections)

- NEI encouraged NRC staff to reach out for industry feedback in this area.

During the meeting, the NRC staff, NEI and the industry representatives conducted extensive discussions on these topics. However, given the mutual interest on these issues, additional/future discussions may still be necessary. This action item will remain open.

- Action Item 3:

- NUREG-2159, “Acceptable Standard Format and Content for the Material Control and Accounting Plan Required for Special Nuclear Material of Moderate Strategic Significance”

- Consider holding a public meeting on the draft document 3–4 weeks after comment period on the document has started

During the meeting, the NRC staff noted that it had planned to issue the document for public comment by the end of March 2021 for a 60-day comment period, but that there have been some delays due to the document’s internal review. The staff noted that, as requested during the October 2020 meeting, it is considering conducting a public meeting at some point during the comment period. The staff will update the information in the integrated schedule chart once the document is published and the meeting’s date decided. This action item will remain open.

- Action Item 4:

- Revisions to Inspection Manual Chapter (IMC) 0616

- NEI will provide suggestions on IMC 0616 Appendix B risk-informed guidance for minor/more than minor significance. The staff will evaluate their submittal to clarify language in IMC 0616 in an upcoming revision.

The staff looked into whether the revisions to IMC 0616 App. B in 2017 changed the staff’s assessment of significance of a violation (minor violation vs. SL-IV violations) and determined that the revisions to IMC 0616 do not represent a change on how staff assess the significance of violations (minor vs. Severity Level IV violations). **NOTE:** the staff discussed this item during the Inspection and Oversight Branch’s “Fuel Facility Oversight” presentation.

- Action Item 5:

- If possible, NRC staff to provide information on:
  - Breakdown of enforcement activities that are fee billable
  - Budgeted vs. expended resources

**Breakdown of enforcement activities that are fee billable:** the NRC staff found that, the Fiscal Year 2020 Final Fee Rule (issued on August 18, 2020), deleted Footnote 1 to

10 CFR 170.21, and Footnote 2 to 10 CFR 170.31. These footnotes used to state that fees would not be charged for orders related to civil penalties, or other civil sanctions, or for amendments resulting specifically from the requirements of the orders. As a result, follow-up services provided by NRC in connection with the orders (such as inspections and document-review activities) are being billed. The justification for these charges is that these follow-up services primarily benefit a specific licensee by maintaining its NRC license in good standing, and that the services contribute to maintaining and enhancing public confidence. The NRC, however, retains its ability under 10 CFR 170.11 to grant fee exemptions when circumstances exist in which charging fees for follow-up activities related to an order would be unfair. Removing the fee exceptions does not change the NRC policy regarding recovery of costs associated with preparing an order. The costs will continue to be recovered through annual fees. This portion of the item is closed.

***Budgeted vs. expended resources:*** the NRC staff gathered this data and will provide and discuss it during the NRC staff presentation on “Non-fee Billable Activities” (see discussion below). This portion of the item is closed.

### **Integrated Schedule Chart and Supplement Updates**

The NRC staff provided updates to the rulemaking and regulatory activities listed on the integrated schedule chart of regulatory activities impacting the fuel cycle industry. The NEI and the industry representatives were informed that the list of rulemakings on the integrated schedule chart was revised in response to their request during the October 2020 public meeting to consider including additional rulemakings impacting the nuclear fuel industry (see discussion on Action Item 1 above). Two non-rulemaking activities were also included. The newly listed activities were as follows:

- Rulemakings
  - Decommissioning Financial Assurance for Sealed and Unsealed Radioactive Material (PRM-30-66; NRC-2017-0159) - (SECY-19-0125)
  - Advance Notice of Proposed Rulemaking - Alternatives to the Use of Credit Ratings (RIN 3150-AJ92) (SECY-16-0009, SECY-20-0056)
  - Categorical Exclusions from Environmental Review (SECY-20-0065)
  - Rulemaking Plan - Transforming the NRC Environmental Review Process (SECY-21-0001)
  - Path Forward and Recommendations for Certain Low-Level Radioactive Waste Disposal Rulemakings (SECY-20-0098)
  - Harmonization of Transportation Safety Requirements with International Atomic Energy Agency Standards (RIN 3150-AJ85; NRC-2016-0179) - Part 71 (SECY-16-0093 and SECY-20-0102)
  
- Non-rulemakings
  - NUREG-2159 - MC&A Guidance for Special Nuclear Material (SNM) of Moderate Strategic Significance
  - Low Safety Significance Issues (LSSI)

The integrated schedule supplement was also updated to provide detailed information on the newly listed activities. A detailed summary of the changes to the chart is provided under ADAMS Accession Number ML21082A424. The NRC staff posted the updated integrated

schedule and updated supplement on the NRC public Web site at <https://www.nrc.gov/materials/fuel-cycle-fac/regs-guides-comm.html#cumeffects>.

### **Status of Accident Tolerant Fuel (ATF) and Advanced Reactor Fuel (ARF) Activities**

This was a shared presentation between NRC staff and NEI. The NRC staff discussed the status of DFM activities in support of the ATF and ARF programs. Activities include the creation of the ATF public Web site on the NRC's Web page, the completion of literature reviews, and the DFM and industry ATF presentations at the 2021 Regulatory Information Conference. The NRC staff briefly discussed recently completed licensing activities in support of the program, including the review of license applications to authorize higher uranium enrichment percentages, issuance of minimum margin of subcriticality for fuel fabrication facilities up to 8 weight percent, and the issuance of several actions for transportation of ATF. The NRC staff also discussed the timeline for conducting its reviews in support of the industry's ATF activities and schedules and reported that NRC continues to conduct research on ATF through its contractors.

Following its presentation on the activities in support of ATF, the NRC staff discussed the current status of activities in support of the ARF program. The NRC staff continues to assess NRC's regulatory infrastructure to identify data needs and/or challenges, to ensure readiness through the development of ARF strategy plan for conducting research to obtain the necessary information to conduct licensing reviews in support of industry timelines, and assessing and updating existing guidance for material control and accounting for Category II facilities to support ARF designs. The NRC staff continues to monitor the U.S. Department of Energy and industry plans and activities, has engaged the advanced reactor stakeholders, and has communicated the timelines for regulatory activities needed to support fuel fabrication and transport of ARF. The NRC staff also provided a list of the technical reports on ARF that have been completed to date. The NRC staff completed its presentation by providing answers to NEI and industry representatives' questions.

The NEI provided their presentation on ATF. The NEI shared the industry plans and timelines for ATF sample test plans. The industry noted that in 2020, initial irradiation cycles of ATF and lead test assembly samples were completed at the Hatch, Vogtle, and Byron nuclear power plants (NPPs) and that it has planned for successful fuel reloads in 2021 at other NPPs. The industry expects that nine different ATF concepts would be loaded into eight reactors of four different utilities by the end of 2021. Additional ATF test sample shipments are planned for the last quarter of 2022. The industry is committed to realizing ATF with increased burnup and enrichments by the mid-2020s.

Following this presentation, the public was afforded an opportunity to provide comments or ask questions on the topics discussed up to this point (i.e., Status of Action Items from October 2020 Meeting, Integrated Schedule and Supplement Updates, and Status of ATF and ARF Activities). No comments were provided, or questions asked.

### **Status of Smarter Licensing Program (SLP)**

The NRC staff discussed the current status of its efforts to implement the SLP working group (WG) recommendations. The staff noted that the WG recommendations have been sub-divided into near-term (NT), mid-term (MT), and long-term (LT) recommendations to be incorporated, and the DIs published, by mid-2021, late 2021, and 2022 and beyond, respectively. Currently, the staff's efforts have been concentrated on incorporating the NT recommendations into DFM's

Division Instructions so they could be finalized and published by mid-2021. The NRC staff also discussed the specific purposes of the revisions to the internal guidance under the NT, MT, and LT recommendations. For example, DI revisions to address NT recommendations focus, among other areas, on interactions and communications with licensees before (i.e., pre-application meetings) and during the technical review of applications (e.g., phone calls to clarify information or ensure mutual understanding of information requests), schedule development and resource estimates, and specific guidance regarding the request for additional information process. Revisions to address MT recommendations focus on developing job aids to improve the review process, developing safety evaluation reports, and facilitate inspectors' involvement in the review process. Revisions to address LT recommendations focus on updating guidance for license renewals, develop guidance for greater than critical mass licensees/applicants, and identify and apply lessons learned from licensing reviews for use on future licensing activities. Following this presentation, NRC staff provided responses to questions from the meeting participants. A request was made to NRC staff to consider establishing a Web page to provide the public and stakeholders a level of visibility of information, documents, and activities conducted on the smarter licensing effort that would be comparable to the level of information that is being provided under the Smarter Inspection initiative. A short discussion on licensing metrics followed. The staff noted that metrics have been recently modified to meet the Nuclear Energy Innovation and Modernization Act (NEIMA) regulations which require discussing a completion date with the licensee to develop the review schedule and its associated milestones based on those discussions. A question regarding activities supported, but not lead by, DFM was made. The NEI wanted to know how DFM ensures that these other organizations take advantage of insights and best practices gained under the smarter licensing initiative are being incorporated into their internal processes to improve efficiency. The staff noted that it routinely interacts with those other NRC organizations to exchange information and discuss best practices and latest developments and initiatives within DFM and those other organizations in an effort to learn from each other, improve the organizations' regulatory processes, and ensure consistency of their regulatory processes. The discussion was finalized with NEI's recognition of the NRC staff's efforts for revising and publishing licensing guidance documents to improve transparency.

Following this presentation, the public was afforded an opportunity to provide comments or ask questions on the status of the SLP. No comments were provided, or questions asked.

### **COVID-19 Lessons Learned and Beyond**

This topic consisted of a roundtable discussion among the meeting's participants. The discussion concentrated on lessons learned during the COVID PHE, what has worked well and what improvements can be made. The processing of requests for regulatory relief received positive feedback. The industry also stated that the interim guidance that the NRC staff developed for handling these requests was a helpful tool for preparing their requests.

The NEI and the industry also commended the staff's engagement and efforts for periodically reaching out to the industry to ensure adequate and prompt actions were taken to meet the industry needs.

The staff was also commended for the timely publication of information on the NRC Web site. The NEI, however, did express concerns regarding the publication of information in ADAMS, since sometimes it is not easy to find information by searching through the system. The NEI considers this a matter of transparency and noted that consolidating information relevant to the industry during the PHE in one place (e.g., the NRC Web site) is very helpful and helps to

provide more visibility and transparency to the industry, as well as to the public. The NRC staff noted that an alternative to facilitate the availability of information and maintain awareness by signing-up to NRC list serves for other facilities so every time a document is issued the interested party gets notified.

The possibility of using an electronic portal for submitting requests to the NRC was discussed. The NEI stated that they are aware of this tool being used by the Office of Nuclear Reactor Regulation, and noted that the industry may not be familiar with it, and the idea may need additional consideration since the need and volume of submittals may not justify such expenditure for fuel facilities.

During this discussion, a member of the public was provided an opportunity to comment. The comment was in regard to the reactor licensing process. The NRC staff responded by noting that the process for licensing a reactor is different from the fuel facility licensing process. The staff thanked the member of the public for the comment and extended an invitation to continue to listen to the meeting's discussions.

Following this intervention, the staff continued with the discussions regarding the lessons learned during the COVID-19 PHE. Two licensees commended the NRC staff for its quick processing to their licensing requests during the PHE and highlighted the efficiency of the process. No additional comments were provided.

Following this presentation, the public was afforded an opportunity to provide comments or ask questions on the COVID Lessons Learned and Beyond topic. No comments were provided, or questions asked.

A short discussion on the development of an Enforcement Guidance Memorandum during the PHE was held. The staff asked the industry for feedback on the approach, more specifically, regarding enforcement discretion, which the industry provided.

### **Fuel Facility Oversight**

This represented the first presentation of the afternoon session of the meeting. During this presentation, NRC staff provided updated information on the status of the Smarter Inspection Program (SIP) WG recommendations implementation activities. The SIP WG recommendations were approved in March 2020. Since then, the NRC staff has revised 38 (out of 43) inspection guidance documents, including the retirement of others, mainly to adjust the frequency or number of hours of inspections according to the risk of the activity and for facilities with an approved corrective action plan. The NRC staff also conducted training to ensure the staff's understanding of the changes and to adequately implement the changes. The staff also discussed its plans for 2021 to complete the implementation of the WG recommendations, which includes revising/updating additional guidance documents, retiring any guidance that may no longer be useful/applicable, issuing a closure memorandum, completing the assessment of the scope of the resident inspector program, formalize the process to incorporate operating experience into the inspection program after revision of the inspection guidance documents, in addition to conducting an assessment of the operating experience program. Additional information describing the program's progress will be issued and posted to the NRC Web site by the end of March 2021. A short question and answer (Q & A) session followed. The NRC staff provided responses to industry's general questions on the assessment of the Operating Experience Program, the schedule for completing the assessment, and the target date for issuing the assessment's report. A question regarding the periodicity of the assessment came

up. The NRC staff noted that it is currently performed on a yearly basis, that the plan is to continue to conduct it on that basis, but that it may change based on further evaluation of the program. The NEI asked about when the industry and the public would have visibility of the assessment's framework or scope (i.e., charter memorandum, any other information). The staff noted that a WG charter will be issued and published shortly.

The staff discussed its phased approach for assessing the oversight activities during the PHE. The assessment is to be conducted through three phases where the staff would assess current inspection-related activities during the PHE (e.g., remote/on-site inspections, inspection duration), assess inspection-related activities to enhancing inspection guidance and practices, and then implement recommendations.

### **Industry Position on Safety Margins**

A roundtable discussion on the industry position regarding safety margins and dispositioning of degraded or failed management measures and meeting performance criteria followed. The discussion during this session was centered on the issuance of severity level (SL) IV violations to licensees for failure to meet the requirements in 10 CFR 70.62(d) (i.e., a failed or degraded management measure) even when meeting the requirements in 10 CFR 70.61(b), (c), and (d). The NRC staff position is that failures of management measures to ensure an Item Relied On For Safety (IROFS) is available and reliable to perform its safety function is a violation of 70.62(e) when the IROFS is needed (e.g., not during maintenance or testing). This is considered to be within the context of the performance requirements, which is a separate concept from meeting the performance requirements of 70.61(b), (c), and (d). The industry disagrees and its position is that, in these instances, there should be no violation, or instead, if it is determined to be a violation the severity should be no more than minor (see NEI letter dated July 24, 2020 – ADAMS Accession Number [ML20211L714](#)).

The 2017 revisions to the guidance in IMC 0616 subject was brought up. The industry believes the revisions are not clear and may represent a change in NRC position because the severity level of previous violations appears to have changed (i.e., violations previously considered minor, are now SL-IV). The NRC staff looked into the issue and found that before and after the 2017 revisions, in some instances NRC staff did issue minor violations, and at another times, issued SL-IV violations for these violations, again depending on the risk or safety significance of the failure. Based on this information, NRC staff determined that the revisions to IMC 0616 do not represent a change in position. There was extensive discussion on this matter. The NRC staff and the industry agreed that a failure to meet the 10 CFR 70.62 requirements does not mean a failure to meet the requirements in 10 CFR 70.61. However, there is still disagreement on: (1) whether the violation to the 10 CFR 70.62 requirements actually exists although the 10 CFR 70.61 requirements are still being met, and (2) the severity level of the violation (i.e., IV vs. minor). The industry did agree that if the violation is of programmatic nature the violation should then be SL-IV, or otherwise, minor or not a violation at all. The NRC staff and the industry agreed to disagree on their respective positions and determined that additional discussions on this issue are still necessary.

At this point of the discussions, a pause was made to afford members of the public an opportunity to provide comments. However, no comments were provided, or questions asked by the public.

Given the extensive discussions on the safety margins issue, which required more time than it was originally planned for, a revision to the agenda topics was proposed. Following discussions



of options for proceeding, the meeting participants agreed to continue the discussions on safety margins and revise the meeting's agenda to defer the Retrospective Review of Administrative Requirements (RROAR) and the Termination of Interagency Agreement with U.S. Department of Energy for discussion during the March 25, 2021, session of the meeting. **NOTE:** the participants eventually agreed to remove these two topics from the agenda and reschedule the discussion on Issues of Low Safety Significance for presentation during the March 25, 2021, session.

After agreeing on the changes to the agenda, the discussion on safety margins was resumed. In view of the disagreement in the interpretation of the guidance in IMC 0616, NRC staff suggested that the industry provide alternative language for NRC staff's consideration for revising/clarifying the guidance, so that in the end, there is just one interpretation and the end result of the assessment of the violations is always the same and that it is not open to different interpretations.

### **Current and Future Non-fee Billable Activities**

During this presentation, NRC staff provided data on the budgeted vs. utilization of resources to support the agency's mission for the October 2020 to February 2021 time period. Based on the data provided, NRC staff is projecting lower resources' burning for some product lines (e.g., event response, training) than originally budgeted, but overall, it is on track to burn resources as budgeted by the end of the year. The NRC staff also provided a breakdown of the activities covered/involved under each product line (billable and non-billable). Product line 4, Licensing, which involves, among others, the smarter licensing activities, licensing assistants support, and stakeholder meetings, is the area where most work hours are/have been expended. Product line 5, Oversight, is also another area where a high number of hours are being reported. A request to better explain the difference between the Smarter Licensing vs. the Risk-Informed Inspection Programs under Product Line 5 was made. The difference could not be clearly established so the staff decided to get back to the requester with the requested information.

A discussion on the future billable and non-billable activities followed. Activities for Fiscal Year (FY) 22 include, among others, Commission meetings and drop-in meetings, the new Guidance For New Applications For Materials Licenses of Greater Than Critical Mass (NUREG-2212), the renewal of two existing licenses for two fee-exempt universities, the annual Fee Rule, and the RROAR rulemaking. Activities for FY 23 include, among others, Commission meetings and drop-in meetings, updating the Standard Review Plan for Fuel Cycle Facilities License Applications (NUREG-1520), updating the Environmental Review Guidance (NUREG-1748), issuance of a new license for one fee-exempt university, renewing the existing license for one fee-exempt university, a potential contested hearing for a new license, and, the annual Fee Rule. An application for a new fuel cycle facility, a billable activity, is also expected.

Additional discussion on budget utilization and the breakdown of billable and non-billable activities was held. The industry wanted clarification on the data provided during the presentation. The staff noted that the data shown provides the numbers for both types of activities together, and that it is looking for a way to better breakdown the numbers. In response to a follow-up question regarding the percentage of the budget recovered through billable work, NRC staff stated that the agency recovers about 25 percent of the budget from billable work. The other 75 percent is recovered through annual fees. The staff also noted that those numbers are expected to change as a result of NEIMA, the NRC approval of the of Centrus' license amendment and completion of the operation readiness review authorizing operation of their High Assy-Low Enriched Uranium (HALEU) demonstration facility (which will make Centrus

subject to annual fees), and the X-Energy application for a new license, expected later this year, and if approved, the subsequent issuance of this license. The staff also noted that with the start of operations of these two facilities, the currently operating fuel cycle facilities should experience a reduction of their annual fees.

Additional discussion on how the staff tracks non-fee billable work was held. The staff noted the recent efforts it has made to enhance tracking these activities. This has been done, through the opening of additional Enterprise Project Identification numbers and non-fee billable Cost Activity Codes to better track these activities. These efforts have resulted in better tracking and accountability of the non-billable activities, although the staff recognizes that additional work may still be needed. No more questions were asked.

Following this presentation, the public was afforded an opportunity to provide comments or ask questions on the following topics: Fuel Facility Oversight, Status of the Fuel Cycle Smarter Inspection Program, COVID-19 PHE Oversight Activities, Operating Experience Program, Safety Margins, and Current and Future Non-fee Billable Activities. No comments were provided, or questions asked.

There was a short discussion about the logistics for the meeting on March 25, 2021. Following discussion and agreement on the logistics and agenda topics for the next day, the public was provided yet another opportunity to ask questions or provide comments before adjourning the meeting. No comments were provided, or questions asked. After closing remarks from NRC staff and NEI, the meeting was adjourned at approximately 4:45 PM.

### **March 25, 2021, Meeting Session**

The meeting resumed at 9:45 AM.

Similar to the previous day, the activities started with NRC staff discussing the meeting's category and purpose, and the instructions and logistics for conducting it. The NRC staff briefly discussed the adjustments to the agenda, as agreed upon during the previous meeting session. Opening remarks by NRC and NEI senior management followed. After the remarks, the meeting's main activities resumed.

### **Issues of Low Safety Significance**

The NRC staff introduced this presentation by noting that this topic focuses on issues that seldom arise, usually during an inspection, that may or may not be part of the licensing basis, but determined to be of very low safety significance, it could take a significant amount of time and/or resources to be resolved. The Resolution of Low Safety Significance Issues is a relatively new initiative aimed at looking at potential process enhancements that could support NRC staff on risk informing the issues to mitigate the situation, adequately evaluate the issue, and more efficiently resolve it using the appropriate tools (e.g., implementing corrective actions, exercising enforcement discretion). The staff provided an overview of how the strategy would be used to adequately assess the issues, and determine whether its full resolution is necessary, and avoid spending unnecessary time in the process. The staff is currently preparing tabletop exercises to finetune and implement the strategy and ensure there is clear understanding of how it is to be applied.

Following the presentation, the staff provided answers to industry questions, mainly requesting clarification of the information provided, and when the staff plans to engage the industry during

the strategy development process. The staff noted that the effort is still in the early stages of its development and that it plans to engage the industry and the public once the internal discussions, tabletop exercises are completed, and draft guidance is ready for publication to request comments later this year. The NEI thanked the staff for providing more visibility on this effort and stated that it will look forward to supporting the initiative's development when requested. The NRC staff requested the industry to provide any examples they may have of issues of very low safety significance where there is a potential for spending excessive amount of time to resolve since this will help the staff in further developing the table top exercises and the strategy for future implementation. No additional questions were asked.

Following this presentation, the public was afforded an opportunity to provide comments or ask questions on the topic of issues of low safety significance. In this instance, a member of the public requested and was afforded the opportunity. The commenter stated that there have been previous instances where a licensee has over-committed, in some areas, beyond what the regulations require, either by adding a process or procedure that becomes part of the licensing basis but that generally, addresses a low safety significance issue. The commenter wanted to know how the staff would handle such situations. The staff stated that situations like that would be evaluated on a case-by-case basis to determine a course of action.

The commenter also asked if there would be expectations for licensees to review these unnecessary commitments and request their removal from their licensing basis documents. The commenter further asked if the NRC would be open to support to such requests. The staff responded that licensees can request amendments to their licensing basis documents to remove the commitments, but that it would consider whether the low significant issue resolution process could be an alternative to address this issue once implemented. The commenter suggested that the NRC consider whether the requested change meets the regulations, and not necessarily whether it decreases the effectiveness of the safety program. The NRC staff thanked the commenter for his participation and contributions to the discussion. No other questions were asked, or comments provided.

### **Security for Facilities Possessing Category II Special Nuclear Material**

The NRC staff lead the discussion on the security requirements for facilities authorized to possess SNM of moderate strategic significance (i.e., Category II material). The current approach to adequately secure Category II SNM is to, on a case-by-case basis, evaluate the need for supplemental security measures for the SNM using a risk-informed analysis. The reason for this approach is that the level of protection provided by the current regulatory framework does not consider the current threat environment and the current understanding of risk associated with HALEU SNM. The approach is consistent with the approach discussed in SECY-04-0222, "Decision-making Framework for Materials and RTR Vulnerability Assessments." Security requirements are site-specific, based on factors such as the facility setting and layout, its processes and activities, and physical/chemical form of the materials to be possessed. The requirements are implemented through license conditions to ensure they are fairly and reasonably applied. The NRC staff encourages applicants and licensees to engage early in pre-licensing information exchanges to better understand the process and the potential requirements that would be applicable to their facilities.

A Q & A session followed the presentation. A member of the industry requested clarification on what applying supplemental measures fairly and reasonably meant. The staff stated that this means that it will look at facilities with similar materials uniformly with the goal of consistently applying reasonable supplemental measures specific to their sites to adequately mitigate any

potential risks without being too conservative. Another member of the industry asked if the staff intended to put out guidance on security measures for the various SNM physical/chemical forms and transport between licensees. The staff responded that it plans to publish a Q & A document to assist stakeholders in meeting the regulatory requirements. The staff expects to publish the Q and A document sometime during the summer of 2021. No other questions were asked.

Following this presentation, the meeting participants took a 10-minute break. After returning from break, the public was again provided another opportunity to ask questions or provide comments. No questions were asked, or comments provided.

### **Roundtable Discussion: DFM Strategic Priorities**

This was the last topic in the meeting's agenda. During this presentation, NRC staff discussed the DFM strategic priorities, how they relate to the fuel cycle industry, and what DFM staff is doing to bring them to fruition.

There are currently five strategic priorities in DFM. These are:

- *Continuing the Journey to Becoming a More Modern Risk-Informed Regulator*

There are various initiatives that NRC staff is working on to continue this journey (many of these discussed during the meeting).

- *Using Tools to Assist the Staff in its Decision Making*

Use of Information technology (IT) resources to carry out the NRC mission.

- *Communicating the Work that DFM Does*

The DFM staff is communicating the work it does and its accomplishments both inside and outside the agency (i.e., the public, the industry, and other stakeholders), through different forums.

- *Focus on Our People*

Increased efforts to ensure the agency is prepared with staff who possess the necessary skills, knowledge, and expertise to evaluate new technologies, both now and in the future.

- *Preparing for the Future of the Spent Fuel and Fuel Cycle Regulatory Programs*

Preparing the agency to meet the challenges of future in the nuclear field (e.g., ATF and advanced reactors licensing from the fuel cycle perspective), etc.]

The staff noted that the above discussed priorities are consistent with the [NRC's transformation areas](#), which are people, risk, technology, and innovation. The staff also noted that these focus areas have been translated into objectives and goals for NMSS and incorporated into the DFM strategic priorities discussed above. The staff generally discussed how these objectives are brought to fruition through the current initiatives within DFM, such as implementation of the Smarter Program recommendations, integrating risk into the DFM processes, staff cross-training, using technology and IT tools for conducting inspections, meetings and other

regulatory activities and providing/processing timely responses to requests for regulatory relief during the COVID-19 PHE, among others.

The NRC staff also discussed how it is looking at the COVID-19 lessons learned to innovate the DFM oversight programs and take advantage of these lessons after the PHE is over in areas such as conducting remote inspections and public meetings. The expansion of the telework program and how it would be implemented is another area under NRC management's consideration.

The NRC staff noted that the agency is diligently working in the area of knowledge management given the increased rate of staff turnover, workforce aging and retirements, and newly hired staff. To maintain a highly qualified workforce, DFM is supporting and conducting staff cross-training between staff from its two business lines to ensure there is highly qualified staff within the Division to adequately face future challenges.

Following this presentation, NEI and industry representatives provided their views on the strategic priorities and other initiatives discussed above, and thanked NRC staff for sharing the information and for providing visibility on what is going on within DFM and the agency as a whole, and how those activities and initiatives impact both the regulatory process and their activities as an NRC licensee. No additional comments were provided.

### **Summary of Meeting's Discussions**

Following the completion of the discussions of the DFM Strategic Priorities, the staff provided a summary of the discussions held during both days, followed by a discussion on the action items that resulted from the meeting. At the conclusion of this discussion, the meeting participants paused for a short break.

The meeting resumed by providing members of the public another opportunity to ask questions or provide comments. However, no questions were asked, or comments provided.

The NRC staff continued the meeting with closing remarks by Ms. Andrea Kock, Director, DFM, and Ms. Janet Schlueter, Senior Director, Fuel and Radiation Safety, NEI. The meeting activities concluded at approximately 12:00 PM.

### **Adjourn**

Since the NRC staff had planned to conclude and adjourn the meeting at 12:30 PM, the NRC staff remained available on the phone to respond to any potential questions from members of the public who may have joined after the conclusion of the meeting. However, no members of the public joined after the meeting was concluded and NRC staff adjourned the meeting at 12:30 PM, as originally planned. The NRC staff plans to conduct its next CER interaction with the industry during the summer of 2021.

### **Action Items**

The following action items resulted from the discussions during the meeting:

***Smarter Licensing***

1. Consider establishing a Web page to provide information on smarter licensing similar to the level of the information provided on smarter inspection.

***Logistics***

2. The NEI again requested that NRC staff provide the slides for these meetings earlier to give them more review time.
3. Covid-19 Lessons Learned.
  - a. NEI asked that NRC staff inform them what they could do differently to facilitate inspections during the PHE, and under normal operations.
  - b. Consider the following topic for future discussion: incorporation of remote inspections into routine oversight activities.

***Safety Margins***

4. Violations to 10 CFR Part 70.62 requirements: NRC staff will consider industry recommendations to clarify the guidance in IMC 0616 for determining when a violation is a SL-IV or minor.

***Issues of Low Safety Significance***

5. The industry requested the opportunity for more involvement/transparency in the development process of the screening questions.
6. The NRC staff should consider licensee participation in the tabletops.
7. The NRC staff should consider the situation where licensees put commitments in place that go beyond the regulations. The Low Safety Significance Issue Resolution process may inadvertently trigger license amendment requests to remove those commitments if licensees believe they will be "penalized" for them.

***Security for Facilities Possessing Cat II SNM***

8. Consider developing generic guidance on the main fuel types.
9. NEI request: provide in advance the date for releasing Q and A information.

**Information and Communications Technology**

Information Technology tools for communicating during this meeting consisted of using WebEx for presentation of the slides, a telephone bridge line and participants' and attendees' passcodes, respectively, for audio communications. Contrary to the previous two meetings where this technology was used, there were no technical issues during the proceedings.

**SUBJECT:** SUMMARY OF MARCH 24-25, 2021, FUEL FACILITY STAKEHOLDER PUBLIC MEETING

**DATED:** May 18, 2021

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