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March 11, 2013

Mr. Larry L. Campbell
Chief, Programmatic Oversight and Regional Support Branch
Office of Nuclear Materials Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Fuel Cycle Industry Comments on Draft Regulatory Basis to Clarify Title 10 of the Code of Federal Regulations, Part 21, "Reporting of Defects and Noncompliance"

Project Number: 689

Dear Mr. Campbell:

On behalf of the fuel cycle industry, the Nuclear Energy Institute (NEI)¹ appreciates the early opportunity to provide additional feedback on the draft regulatory basis document to clarify the requirements of 10 CFR Part 21 which was made available in December 2012 and discussed in a public meeting on January 24, 2013, at the U.S. Nuclear Regulatory Commission (NRC) in Rockville, Maryland.

The stated intended purpose of this potential rulemaking is to revise 10 CFR Part 21, "Reporting of Defects and Noncompliance" to "clarify and simplify" the regulations. The draft regulatory basis indicates that this effort, to a large extent, could be satisfied through revised and new guidance. We fully support a guidance only approach on this matter. Of further concern to the fuel cycle facilities, is the fact that the draft regulatory basis appears to indicate a significant expansion in the scope of Part 21 but does not identify any observed or perceived safety, vendor or procurement issues of concern to be addressed by this rulemaking. The industry believes that the issues that have been identified in the draft regulatory basis can be sufficiently addressed through the development/revision of guidance documents since the staff has repeatedly stated that this rulemaking effort is intended to clarify the existing rule. Additionally, in the context of our early discussions on the cumulative impacts of current regulatory initiatives relevant to the fuel cycle facilities, it is unclear what priority NRC is assigning to this potential rulemaking since industry is not aware of any safety drivers that

¹ The Nuclear Energy Institute (NEI) is the organization responsible for establishing unified industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel cycle facilities, nuclear materials licensees, and other organizations and entities involved in the nuclear energy industry.

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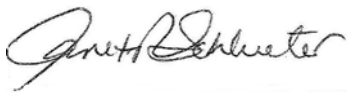
might be realized by implementing a revised Part 21 as envisioned in the Draft Regulatory Basis, nor do we mean to imply that one is needed.

As discussed during the January 24, 2013 public meeting, the principal concerns for the fuel cycle facilities are the definitions of substantial safety hazard and basic component. We support further discussions of these definitions in a manner that is consistent with the current regulations and guidance, while reflecting the relative risks presented by the fuel facilities that were not specifically addressed in the Part 21 rulemaking of 1977. There are additional areas of concern which we discussed during the public meeting (e.g. definitions of point of discovery and deviation, as well as commercial grade dedication) that warrant further public discussion, as was acknowledged by NRC during the January meeting.

We support and encourage continued NRC-industry dialogue on these issues and look forward to further discussions on clarification of the definitions with the NRC staff.

If you have any questions, please feel free to contact me or Andrew Mauer at 202-739-8018; anm@nei.org.

Sincerely,

A handwritten signature in dark ink, appearing to read "Janet R. Schlueter". The signature is fluid and cursive, with the first name "Janet" and last name "Schlueter" clearly distinguishable.

Janet R. Schlueter

c: Mr. John D. Kinneman, NMSS/FCSS, NRC
Mr. Anthony T. Gody, Jr., R-II/DFFI, NRC
Mr. Victor E. Hall, NRO/DCIP/COAB, NRC
Ms. Sabrina D. Atack, NMSS/FCSS/PORSB, NRC