



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

January 3, 2019

MEMORANDUM TO: Darryl Parsons, Director  
Information Security Branch  
Division of Security Operations  
Office of Nuclear Security and Incident Response

FROM: Alicia Williamson, Project Manager **/RA/**  
Information Security Branch  
Division of Security Operations  
Office of Nuclear Security and Incident Response

SUBJECT: SUMMARY OF OCTOBER 23, 2018 PUBLIC MEETING WITH THE  
NUCLEAR ENERGY INSTITUTE REGARDING THE NRC FACILITY  
CLEARANCE PROGRAM

On Tuesday, October 23, 2018, members of the U.S. Nuclear Regulatory Commission (NRC) staff held a public meeting at the NRC headquarters in Rockville, Maryland. The public meeting was held in response to a request from the Nuclear Energy Institute (NEI) regarding the NRC's facility clearance program. The purpose of the meeting was to discuss options presented by NEI by letter dated August 8, 2018 (ML18226A087) and to simplify and clarify various aspects of the facility clearance (FCL) program, including the identification of key management personnel requirements and the Foreign Ownership, Control, or Influence (FOCI) enclosure to facility clearance approval letters. There were approximately 35 participants in the public meeting, including members of the NRC staff, NEI, and the industry. The staff's presentation is attached in Enclosure 1.

The meeting began with introductions of the NRC, NEI, and industry participants and provision of meeting ground rules. Next, the NRC staff started the dialogue with NEI by clarifying the NRC's authority to require measures in the voluntary FCL program that are beyond those listed in the National Industry Security Program Operating Manual (NISPOM). The NRC staff explained that due to the post-9/11 heightened threat environment, the enclosure's enhanced FOCI reporting obligations were common industrial security practices at the time they were sent to licensees. The NRC staff further stated that the staff recently reviewed the enclosure's enhanced reporting obligations and based on the NRC's operating experience with the voluntary program, determined that these enhanced reporting obligations are no longer needed.

Accordingly, the staff stated that they had begun to notify affected licensees with the enhanced enclosure that they no longer need to provide the information identified in the enclosure.

CONTACT: Doug Hase, NSIR/ISB  
301-415-2650

Next, the NRC staff discussed NEI's three suggestions to improve the security clearance program included in its August 8, 2018 letter to the NRC.

NEI Suggestion 1: NRC could discontinue the practice of requiring facility clearances for facilities in the voluntary program (as described in NEI's April 5, 2018, letter);

NEI Suggestion 2: Facilities in the voluntary program could, as provided for in 10 CFR 95.11, each submit individual requests for exemption from the requirements in 10 CFR 95.17; and

NEI Suggestion 3: NRC could issue a generic communication clarifying what is expected of facilities that do not possess National Security Information to satisfy the reporting requirement relating to significant events or changes that may affect their status.

With regard to NEI suggestion 1, the NRC staff stated that the termination of the regulatory requirement to obtain an FCL in Part 95.15(a) of the Title 10 of the Code of Federal Regulations (10 CFR), that a licensee, certificate holder, or other person must promptly request an NRC facility clearance, if they need access to NRC classified information, would require a rule change. The term "other person" would include entities like NEI that are neither licensees nor certificate holders. The staff continued by stating that the requirement to obtain an FCL is consistent with the NISPOM and it does not anticipate that the NRC will discontinue the voluntary FCL program at this time.

With regard to NEI suggestion 2, the NRC staff stated that licensees may apply for an exemption from the requirement to obtain an FCL in accordance with 10 CFR 95.11. The staff indicated that the NRC could review each exemption request on a case-by-case basis and make a final determination on the specific exemption request in accordance with the criteria in 10 CFR 95.11.

With regard to NEI suggestion 3, the NRC staff stated that licensees, certificate holders, or other persons who seek access to NRC classified information must request an FCL whether or not they actually possess classified information. The staff further provided that both possessing and non-possessing licensees, certificate holders, and other persons are subject to the FOCI reporting requirements in 10 CFR 95.17. The discussion of suggestion 3 concluded with staff stating its openness to explore whether a generic communication could be used to explain what significant events or changes in a licensee, certificate holder, or other person's status may affect one's FOCI status.

The next agenda item that was discussed focused on the identification of key management personnel (KMP). In the August 8, 2018 letter, NEI provided that in some cases KMP are identified that may not have a nexus to the protection of NSI, and accordingly could be removed from the KMP list. The staff stated that the standard for KMP identification is not a "nexus to the protection of NSI." The facility security officer (FSO) and the senior management officer (SMO) must be cleared to a level commensurate with the FCL per 10 CFR 95.18. Classes of individuals that must be reported as KMP are also identified in 10 CFR Part 95.18. The staff suggested that it may be appropriate for a chief nuclear officer to be an SMO, because they serve as the cleared management official responsible for individuals who have access to classified information. The staff emphasized that as identified in 10 CFR 95.18, personnel other than the SMO or the FSO may need to be designated as a KMP depending on the licensee's organizational structure. The staff explained that a position excluded from being cleared as a

KMP, does not preclude that position from being cleared for other reasons, should the licensee consider it desirable for that individual to have access to classified information. Furthermore, the staff clarified that an individual in an excluded position is not required to be cleared as a KMP. An excluded position is one that does not require access to classified information.

The meeting concluded with a discussion of the staff's practices regarding cleared KMP positions. NEI asked when the resubmission of KMP should occur in the event of personnel changes. The staff stated that changes in personnel for cleared KMP positions need not be resubmitted to the NRC as part of reporting requirements unless significant changes to the licensee's organizational structure occurs.

SUBJECT: SUMMARY OF OCTOBER 23, 2018 PUBLIC MEETING WITH THE NUCLEAR  
ENERGY INSTITUTE REGARDING THE NRC FACILITY CLEARANCE  
PROGRAM

DATE: January 3, 2019

**DISTRIBUTION:**

MBailey, NSIR	APretzello, NSIR	DHase, NSIR
JKEverly, NSIR	NSt.Armour, OGC	MWoods, OGC
RidsAdmMailCenter	RidsNmssOd Resource	DBrady, ADM
RidsNrrMailCenter	RidsNsirMailCenter Resource	

**ADAMS Accession No. Memo ML18362A187 Pkg ML18362A183**

<b>OFFICE</b>	NSIR/DSO/ISB	NSIR/DSO	OGC	NSIR/DSO/ISB
<b>NAME</b>	AWilliamson	TKeene	NNoelliste	DParsons
<b>DATE</b>	12/18/2018	01/02/2019	12/18/2018	01/3/2019

**OFFICIAL RECORD COPY**