

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
Washington, DC 20510

The Honorable Sherrod Brown
United States Senate
Washington, DC 20510

The Honorable Jon Tester
United States Senate
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The Honorable Jeffrey A. Merkley
United States Senate
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The Honorable Kirsten Gillibrand
United States Senate
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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
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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
Washington, DC 20510

The Honorable Al Franken
United States Senate
Washington, DC 20510

The Honorable Brian Schatz
United States Senate
Washington, DC 20510

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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The Honorable Gary Peters
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