



NUCLEAR ENERGY INSTITUTE

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Ms. Suzanne C. Black
Deputy Director, Division of Licensing Project Management
Office of Nuclear Reactor Regulation
U. S. Nuclear Regulatory Commission
Mail Stop O8E1
Washington, DC 20555-0001

Dear Ms. Black:

NEI is submitting comments on NRR Office Letter 803, Revision 3, "License Amendment Review Procedures." The enclosed comments were developed from input received from utility licensees and coordinated with the NEI Licensing Action Task Force (LATF).

If you should have any further questions please contact Mike Schoppman at (202) 739-8011 or e-mail him at mas@nei.org.

Sincerely,

Alex Marion
AM/amj

Enclosure

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ENCLOSURE
NEI Comments on NRR Office Letter 803, Revision 3
"License Amendment Review Procedures"

A. General Comments

1. Feedback from licensees indicates that Revision 3 to NRR Office Letter 803 (OL-803) is a key document that provides important insights into the licensing action review process. Project managers in the Office of Nuclear Reactor Regulation (NRR) are using OL-803, and there have been many examples of licensee and vendor submittals being clarified through early communications. NRC management should ensure that new project managers and new technical reviewers are trained in the content and use of OL-803, and that refresher training is conducted when new revisions to OL-803 are published.
2. OL-803 has been expanded to include clarifications intended to ensure consistency in the processing of other "licensing actions" as well as license amendments. We suggest the title of OL-803 be revised to "Licensing Action Review Procedures."
3. The NEI Licensing Action Task Force provided a copy of a draft white paper to the NRC staff at a public meeting on June 28, 2000. The paper was entitled "Standardized Change Process for Technical Specification Bases and 'Technical Requirements' Documents." In the context of the white paper, the term Technical Requirements Documents refers to the set of documents, regardless of title, where selected technical specification requirements are relocated when they do not meet the criteria of 10 CFR 50.36 for inclusion in the technical specifications. Briefly, the draft white paper recommends that changes to the Bases (and to the Technical Requirements Document, if submitted) be processed as "information only" and not require explicit NRC staff review and approval. Once the white paper is finalized, NEI recommends that NRC consider incorporating its concepts into OL-803. Standardized guidance for processing changes to the Bases and Technical Requirements Documents would provide a voluntary, cost-effective administrative change process that is independent of Technical Specification vintage.
4. When Office Letters contain references to other documents, they should include guidance on where and how external stakeholders can obtain copies of the references.
5. OL-803 should provide guidance on how to process parallel submittals (i.e., two or more licensees making essentially the same change at the same time). For example, OL-803 should reference or incorporate extracts from

Regulatory Issue Summary 2000-06 on the Consolidated Line Item Improvement Process (CLIIP).

B. Comments on the Office Letter

1. *Section D, "Review and Concurrence of the Amendment Package," states: "The Office of the General Counsel (OGC) shall review all amendment packages for legal adequacy and defensibility, unless a memorandum of agreement is developed stating that specific amendments do not require OGC concurrence."*

NEI continues to believe that OGC review of amendment packages should be the exception, not the rule. To improve administrative efficiency, Project Directors and Project Managers in the NRR Division of Licensing Project Management should play a role in determining when OGC input is needed.

For example, if precedent has been identified, additional OGC review should not be necessary. Likewise, after the first application is approved under the consolidated line item improvement process (CLIIP), additional OGC review should not be necessary for subsequent approvals.

Criteria for obtaining OGC review should reside in an internal NRC memorandum of understanding between the General Counsel and the NRR Office Director. The specific role of OGC in the amendment process should be defined.

C. Comments on the "Guide for Processing License Amendments"

1. *Section 2.3, "Search for Precedent Licensing Actions."*

Before beginning a precedent search, an initial determination should be made to verify that the time spent would be helpful. A precedent search may not be warranted if the change is minor or unique. Please refer to NEI draft white paper entitled "Use of Precedent in NRC Licensing Actions," submitted by letter dated November 1, 1999, from Alex Marion to Ms. Suzanne Black.

2. *Section 2.4.3, "Schedule of Review" contains a subsection on Licensing Action Timeliness Goals.*

NEI suggests adding flexibility to permit NRC management to adjust internal timeliness goals to accommodate reasonable changes in licensee schedules. Under certain circumstances, it may be feasible to extend the

NRC timeliness goal for a licensing review if the delay is not a measure of NRR performance.

3. *Section 3.1, "Normal (30-day) Public Notification."*

The last paragraph of this section contains general guidance pertaining to "oath & affirmation" (O&A) by licensee senior management. NEI understands that NRC is considering additional guidance on O&A as it applies to licensee responses to RAIs. Any such guidance should be incorporated into OL-803.

4. *Section 4.3, "Requests for Additional Information," contains guidance on the content and timing of RAIs.*

- NRC staff training and management oversight is necessary to ensure the principles contained in Section 4.3 become standard practice for all project managers and technical reviewers.
- This section should reference NRC internal guidance on the backfit rule (10 CFR 50.109) and stipulate that each RAI be reviewed to preclude direct or implied suggestions that the licensee make commitments that could constitute the inadvertent imposition of backfits.

5. *Section 4.4, "Regulatory Commitments," discusses the potential for escalation of commitments into license conditions.*

The second full paragraph on page 4.6 implies that routine commitments normally would not be escalated into formal license conditions. Further guidance may be beneficial to fully implement this paragraph. Strict guidelines for management oversight should be added to ensure that escalation of a commitment is reserved for matters that satisfy the criteria for inclusion in technical specifications (10 CFR 50.36) or inclusion in the license to address a significant safety issue.

6. *Section 4.5.4, "Other," contains a subsection on Regulatory Commitments.*

This section discusses the treatment of regulatory commitments made by the licensee. The guidance states that NRC "safety evaluations for amendment requests containing regulatory commitments should discuss the commitments and should state that the staff finds that the subject matter is adequately controlled by the licensee's administrative programs." NEI recommends that a safety evaluation also make an explicit statement when there are no administrative "regulatory commitments" associated with the amendment.

7. *Section 6.0, "Amendment Preparation and Issuance."*

The use of pen and ink changes to update the amendment number located (usually) on the bottom of a technical specification page should be avoided. Amendment number(s) should be inserted in the electronic file to facilitate the use of electronic information exchange (EIE) in processing license amendments.

8. *Section 7.0, "Risk-Informed Licensing Action Guidance."*

Subsection 7.2.2(9) states "Assess all non-risk-informed licensing action and activity submittals to seek to identify if there are any unaddressed, potentially significant risk effects (e.g., potentially significant changes in CDF, LERF, design margins, or defense-in-depth) that approval of the licensing action could precipitate. If the reviewer suspects that there is such a potential, the nature of the concern should be documented and forwarded along with the submittal to SPSB for joint review and consultation."

This subsection gives NRC project managers and technical reviewers broad discretion over the approval (or rejection) of a proposed non-risk-informed licensing action (i.e., one that is based on the licensee's NRC-approved, "deterministic" design basis). NEI's position on the use of regulatory guidelines as a means to determine if risk analysis is necessary to assure that a licensing action meets the definition of adequate protection remains as stated in NEI letter dated September 27, 1999, from Ralph E. Beedle to the Honorable Greta J. Dicus. Related comments on a proposed new Appendix to Standard Review Plan (NUREG-0800), Chapter 19, "Use of Probabilistic Risk Assessment in Plant-Specific, Risk Informed Decisionmaking: General Guidance" (65 *Fed. Reg.* 19030, April 10, 2000) were submitted in NEI letter to NRC (Stephen D. Floyd to David L. Meyer) dated May 26, 2000.