

December 10, 2003

Mr. Peter E. Katz  
Vice President Nine Mile Point  
Nine Mile Point Nuclear Station, LLC  
P.O. Box 63  
Lycoming, NY 13093

SUBJECT: NINE MILE POINT NUCLEAR STATION (NMPNS) UNIT NOS. 1 AND 2 - AUDIT  
OF THE LICENSEE'S MANAGEMENT OF REGULATORY COMMITMENTS  
(TAC NOS. MB9723 AND MB9724)

Dear Mr. Katz:

On May 27, 2003, the Office of Nuclear Reactor Regulation Office Instruction LIC-105, "Managing Regulatory Commitments Made by Licensees to the NRC [Nuclear Regulatory Commission]," was published. LIC-105, which is publicly available electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC web site (Accession Number ML022750041), provides the NRC staff and its stakeholders with a common reference for handling regulatory commitments made by licensees for commercial nuclear reactors to the NRC staff. The guidance is consistent with the industry guidance prepared by the Nuclear Energy Institute (NEI), NEI 99-04, "Guidance for Managing NRC Commitment Changes." LIC-105 specifies that once every 3 years, the NRC staff will audit a licensee's commitment management program.

An audit of NMPNS's commitment management program was performed onsite and in the NRC office. The NRC staff concludes that, based on the audit (1) NMPNS had implemented NRC commitments on a timely basis; and (2) NMPNS's program for managing NRC commitment changes is effective. Details of the audit are set forth in the enclosed audit report.

Sincerely,

***/RA/***

Peter S. Tam, Senior Project Manager, Section 1  
Project Directorate I  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Docket Nos. 50-220 and 50-410

Enclosure: As stated

cc w/encl: See next page

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AUDIT REPORT BY THE OFFICE OF NUCLEAR REACTOR REGULATION (NRR)  
REGULATORY COMMITMENTS MADE BY THE LICENSEE TO  
THE NUCLEAR REGULATORY COMMISSION (NRC)  
NINE MILE POINT NUCLEAR STATION (NMPNS), UNIT NOS. 1 AND 2  
DOCKET NOS. 50-220 AND 50-410

1.0 INTRODUCTION AND BACKGROUND

On May 27, 2003, the NRR Office Instruction LIC-105, "Managing Regulatory Commitments Made by Licensees to the NRC," was published. LIC-105, which is publicly available electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC web site (Accession Number ML022750041), provides the NRC staff and its stakeholders with a common reference for handling regulatory commitments made by licensees for commercial nuclear reactors to the NRC staff. The guidance is consistent with the industry guidance prepared by the Nuclear Energy Institute (NEI), NEI 99-04, "Guidance for Managing NRC Commitment Changes."

According to LIC-105, a "regulatory commitment" as defined in NEI 99-04 and also for the NRC staff, is an explicit statement to take a specific action agreed to, or volunteered by, a licensee and submitted in writing on the docket to the NRC. LIC-105 further directs the NRR Project Manager to "audit the licensee's commitment management program by assessing the adequacy of the licensee's implementation of a sample of commitments made to the NRC in past licensing actions (amendments, reliefs, exemptions, etc.) and activities (bulletins, generic letters, etc.)." The audit is to be performed every 3 years.

2.0 AUDIT PROCEDURE AND RESULTS

Since no such audit was performed before issuance of LIC-105, the NRC staff defined the period covered by this audit to go back approximately 3 years from the date of the audit. The audit was performed onsite on October 15, 2003; in-office work was performed before and after the audit.

2.1 Verification of Licensee's Implementation of NRC Commitments

The primary focus of this part of the audit is to confirm that the licensee has implemented those commitments made to the NRC as part of past licensing actions/activities.

Enclosure

### 2.1.1 Audit Scope

NMPNS commitments are computerized under the title “Nuclear Commitment Tracking System (NCTS).” The NCTS database can be sorted to produce a variety of reports. The NRC staff reviewed a computer-generated report listing an estimate of thousands of commitments made over the last several years and selected a number of items to be audited. However, LIC-105 limits the audit of commitments to those made in writing to the NRC as a result of past licensing actions (amendments, exemptions, etc.) or licensing activities (bulletin, generic letter, etc.). Accordingly, the overwhelming majority of the “commitments” listed in NMPNS’s NCTS do not qualify as commitments as defined in LIC-105, and were thus not audited for one or more of the following reasons:

- (1) Commitments as a result of Licensee Event Reports (LER)s - These commitments constitute a large portion of the licensee’s NCTS listing. These commitments are controlled by the licensee’s LER process, which is imposed by Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.73.
- (2) Commitments made on the licensee’s own initiative among internal organizational components.
- (3) Commitments that pertain to milestones of licensing actions/activities (e.g., respond to an NRC request for additional information by a certain date). Fulfillment of these commitments was indicated by the fact that the subject licensing action/activity was completed.
- (4) Commitments made as an internal reminder to take actions to comply with existing regulatory requirements such as regulations, Technical Specifications, and Updated Final Safety Analysis Reports (UFSARs). Fulfillment of these commitments was indicated by the licensee having taken timely action in accordance with the subject requirements.

Instead of using the licensee’s NCTS database to identify audit items, the NRC staff searched the licensee’s licensing action and licensing activity submittals dated in the last 3 years. The NRC staff found that commitments meeting the definition in LIC-105 are few in number. Table 1 lists most, if not all, of the licensee’s commitments.

### 2.1.2 Audit Results

The licensee’s NCTS can produce a report on each commitment. Each report is identified by a commitment number. The NRC staff reviewed the reports for each of the commitments listed in Table 1 to evaluate the status of completion of various components of each commitment. In general, each commitment comprises multiple components, such as revising appropriate plant procedures, revising appropriate sections of the UFSAR, revising training manuals, and training personnel. The NRC staff reviewed the information associated with each commitment to determine the status of completion. The NRC staff found that the licensee’s NCTS captured all the regulatory commitments that were identified by the NRC staff before the audit.

The NRC staff also reviewed other sources of information, in particular licensee submittals, to verify implementation of commitments. The review results are shown in the last column on the right of Table 1, where appropriate.

Table 1 summarizes what the NRC staff observed as the current status of licensee commitments. The NRC staff has no basis to dispute the implementation status of these regulatory commitments.

## 2.2 Verification of the Licensee's Program for Managing NRC Commitment Changes

The NRC staff reviewed the licensee's procedure entitled "Interface with the NRC," NIP-IRG-01, Revision 22, against the NEI guidance identified as "Guidelines for Managing NRC Commitment Changes," July 1999. In particular, in regards to managing a change or deviation from a previously completed commitment, Subsection 3.7.4 specifically refers to the guidance of NEI-99-04. In general, NIP-IRG-01 follows the guidance of NEI-99-04: it defines "NRC commitment" similar to "regulatory commitment" is defined in the latter, it identifies persons responsible for managing and tracking commitments, it sets forth the need for identifying, tracking and reporting commitment, and it provides a mechanism for changing commitments.

The effectiveness of a procedure can be indicated by the products that are produced by the procedure. As set forth in Section 2.1 above, the NRC staff found that the licensee had properly addressed each regulatory commitment selected for this audit. As a result of review of the licensee's NCTS information, as well as information from other sources, the NRC staff found no reason to differ from the licensee's reported status of the audited commitments. Thus, the NRC staff surmises that the procedure used by the licensee to manage commitments is appropriate and effective.

## 3.0 CONCLUSION

The NRC staff concludes that, based on the above audit, (1) the licensee had implemented NRC commitments on a timely basis; and (2) the licensee's program for managing NRC commitment changes is effective.

## 4.0 LICENSEE PERSONNEL CONTACTED FOR THIS AUDIT

S. Leonard, Licensing Supervisor  
K. Embrey, Licensing Engineer

Principal Contributor: P. S. Tam

Date: December 10, 2003

TABLE 1

AUDITED: WRITTEN COMMITMENTS AND RELATED INFORMATION  
(1999 THROUGH 2003)

NMPNS Submittal	NRC TAC Number	NRC Issuance	Summary of Commitment	Imple. Status*
6/7/02, NMP2L 2061	MB5276	Amend. No. 106, 8/9/02, for Unit 2	Establish contingency plans in procedures to obtain and analyze highly radioactive samples; develop capability to classify fuel damage events; develop capability to monitor radioactive iodine species.	Complete (Commitment No. 504480)
6/28/02, NMP1L 1671	MB5272	Amend. No. 174, 8/26/02, for Unit 1	Establish contingency plans in procedures to obtain and analyze highly radioactive samples; develop capability to classify fuel damage events; develop capability to monitor radioactive iodine species.	Complete (Commitment No. 504482)
10/7/02, NMP1L 1693	MB6421	Amend. No. 182, 6/3/03, for Unit 1	Establish Technical Specification (TS) Bases to reflect the amendment regarding missed surveillances.	Complete, letter NMP1L 1782, 10/23/03 (Commitment No. 504491)
2/3/03, NMP2L 2082	MB7331	Amend. No. 108, 2/21/03, for Unit 2	Repair or replace the vacuum breaker 21SC*RV36B test cylinder before or during Refueling Outage 9, and resume testing per SR 3.6.1.7.2.	Complete (Commitment No. 504501)
6/24/02, NMP2L 2064	MB5271	Amend. No. 107, 10/2/02, for Unit 2	Establish TS Bases for Surveillance Requirement 3.0.3 (regarding missed surveillance) to reflect the requested amendment.	Complete (Commitment No. 504481)
11/15/02, NMP1L 1697	MB6687	Amend. No. 183, 10/27/03, for Unit 1	Submit the report on RPV neutron fluence benchmark measurements by 1/15/03.	Complete, letters NMP1L 1708, 1/15/03; NMP1L1773 (9/15/03) (Commitment No. 504508)
9/3/03, NMP2L 2099	MC0623	(Under review)	Establish the TS Bases as adopted with the amendment (regarding mode change limitations).	Ongoing (Commitment No. 504514)

\*Implementation status as shown in the licensee's NCTS database, or other documents.

Nine Mile Point Nuclear Station, Unit Nos. 1 and 2

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