

August 4, 2004

MEMORANDUM TO: Catherine Haney, Program Director
Policy and Rulemaking Programs
Division of Regulatory Improvement Programs

FROM: Timothy A. Reed, Senior Reactor Systems Engineer /RA/
Policy and Rulemaking Program
Division of Regulatory Improvement Programs

SUBJECT: SUMMARY OF JULY 29, 2004, MEETING WITH NUCLEAR ENERGY
INSTITUTE (NEI) AND OTHER STAKEHOLDERS ON THE
IMPLEMENTATION GUIDANCE FOR 10 CFR 50.69 (RG 1.201 AND
NEI 00-04)

On July 29, 2004, Nuclear Regulatory Commission (NRC) staff met with representatives from Nuclear Energy Institute (NEI) and industry at the NRC's office in Rockville, Maryland. The meeting focused on the industry 10 CFR 50.69 categorization guidance contained in revision 1 of the final draft of NEI 00-04 (submitted July 8, 2004) and the resolution of staff positions provided in regulatory guide (RG) 1.201. A list of attendees is provided in Attachment 1.

The industry discussed the changes made to final draft revision 1 of NEI 00-04 noting where it believed it has addressed the staff issues identified in RG 1.201. This was a constructive discussion that helped to clarify the remaining areas within NEI 00-04 where the staff may continue to need to either clarify, or take exception to, the NEI 00-04 guidance. Several key issues were noted during the meeting and they are highlighted below.

1. The staff suggested that NEI give consideration to a discussion within NEI 00-04 that would provide a link between common cause failure of RISC-3 SSCs and the rule requirements in 50.69(d)(2) for corrective actions applicable to significant conditions adverse to quality (which would be applicable to this situation should it occur).
2. The staff asked NEI whether NEI 00-04 should address the potential situation where after an update to the categorization process, the sensitivity study is revised and results in a change in CDF or LERF that is now deemed to be too large. What, if anything, should be done in this situation? This potential situation does not appear to be addressed by NEI 00-04 and the staff wanted to understand better the supporting rationale for the lack of guidance.
3. The staff discussed the current thoughts regarding a license condition that would be issued upon approval of the categorization process, and would be intended to control changes made to the approved categorization process. As a first cut, it was indicated that changes that impact the RG 1.201 description, or underlying description in the endorsed NEI 00-04 document would represent proposed categorization process

changes that require prior staff review and approval. The industry suggested that changes that enhance the categorization process, specifically changes which improve the process's identification of safety significant SSCs should also not require NRC review and approval. It was commented that the staff shouldn't (through the review and approval requirement) unintentionally discourage (due to the licensee's reluctance to seek prior review and approval due to the associated review costs) the industry from making such changes.

4. The industry indicated that it disagrees with the language in RG 1.201 that addresses changes to commitments and indicated that the language used could be misinterpreted to mean that commitments that relate purely to special treatment requirements must be maintained. It was suggested that the NRC could clarify the language.
5. There was considerable discussion regarding the issuance of RG 1.201 for trial use. The industry relayed its concern that issuance of RG 1.201 for trial use would result in no licensee using the RG (due to uncertainty with the guidance and the potential that the categorization process might have to be repeated due to a revision in RG 1.201), and that as a result it would defeat the purpose of trial use (i.e., no experience using the RG would be obtained). The issue hinges on whether a licensee approved under the trial use period could be forced to revise their categorization process after approval, particularly in light of the words in RG 1.201 that indicate that the backfit rule (50.109) does not apply. The staff indicated its thought that this language does not apply to an approved licensee's categorization process (i.e., the staff must continue to meet 50.109 requirements for imposing a new requirement on these approved licensees) and instead applies to the staff and is intended to enable the staff to readily revise the RG after the trial period and establish a different position for rev 0 of RG 1.201 (if necessary and supported by trial use experience) than the position in the trial use version RG 1.201.

There was a discussion as to whether there is benefit for NEI to provide a "revision 0" for NEI 00-04 that addresses all the issues to date including the meeting discussion. This revised NEI 00-04 could then be endorsed with a "cleaner" (i.e., fewer exceptions and clarifications) version of RG 1.201. The staff indicated that it thought that such a version would be beneficial and that it would try to process a cleaned-up version of RG 1.201 that references NEI 00-04 revision 0 to support issuance of final § 50.69 provided NEI can submit the new revision in the near future. NEI indicated that it would take a serious look at whether it can support such a change.

Attachment: As stated

changes that require prior staff review and approval. The industry suggested that changes that enhance the categorization process, specifically changes which improve the process's identification of safety significant SSCs should also not require NRC review and approval. It was commented that the staff shouldn't (through the review and approval requirement) unintentionally discourage (due to the licensee's reluctance to seek prior review and approved due to the associated review costs) the industry from making such changes.

- 6. The industry indicated that it disagrees with the language in RG 1.201 that addresses changes to commitments and indicated that the language used could be misinterpreted to mean that commitments that relate purely to special treatment requirements must be maintained. It was suggested that the NRC could clarify the language.
- 7. There was considerable discussion regarding the issuance of RG 1.201 for trial use. The industry relayed its concern that issuance of RG 1.201 for trial use would result in no licensee using the RG (due to uncertainty with the guidance and the potential that the categorization process might have to be repeated due to a revision in RG 1.201), and that as a result it would defeat the purpose of trial use (i.e., no experience using the RG would be obtained). The issue hinges on whether a licensee approved under the trial use period could be forced to revise their categorization process after approval, particularly in light of the words in RG 1.201 that indicate that the backfit rule (50.109) does not apply. The staff indicated its thought that this language does not apply to an approved licensee's categorization process (i.e., the staff must continue to meet 50.109 requirements for imposing a new requirement on these approved licensees) and instead applies to the staff and is intended to enable the staff to readily revise the RG after the rial period and establish a different position for rev 0 of RG 1.201 (if necessary and supported by trial use experience) than the position in the trial use version RG 1.201.

There was a discussion as to whether there is benefit for NEI to provide a "revision 0" for NEI 00-04 that addresses all the issues to date including the meeting discussion. This revised NEI 00-04 could then be endorsed with a "cleaner" (i.e., fewer exceptions and clarifications) version of RG 1.201. The staff indicated that it thought that such a version would be beneficial and that it would try to process a cleaned-up version of RG 1.201 that references NEI 00-04 revision 0 to support issuance of final § 50.69 provided NEI can submit the new revision in the near future. NEI indicated that it would take a serious look at whether it can support such a change.

Attachment: As stated

DISTRIBUTION:

RPRP r/f	ADAMS	ACRS	OGC	EMcKenna
TScarbrough	DFischer	JFair	DHarrison	GParry

ADAMS Accession No.:ML042160294

Office	RPRP	SC:RPRP
Name	TReed	EMcKenna
Date	08/4/04	08/4/04

OFFICIAL RECORD COPY

List of Attendees
7/29/04 Meeting on Implementing Guidance for 10 CFR 50.69

<u>Name</u>	<u>Organization</u>
Tim Reed	NRC/NRR/RPRP
Eileen McKeena	NRC/NRR/RPRP
Mike Tschiltz	NRC/NRR/DSSA
Biff Bradley	NEI
Thomas Scarbrough	NRC/NRR/DE
Barry Sloane	Dominion
Heather Myers	Westinghouse
Nancy Chapman	SERCH Bechtel
Gareth Parry	NRC/NRR/DSSA
Donnie Harrison	NRC/NRR/DSSA
Doug True	Erin Engineering
Glen Schinzel	STPNOC
Bob Lutz	Westinghouse
Adel El-Bassioni	NRC/NRR/DSSA/SPSB
David Fischer	NRC/NRR/DE
Stanley Levinson	Framatome
Eric Jebson	BWROG
Deann Raleigh	Sciencetech
Mike Knapik	McGraw-Hill
Patricia Campbell	Winston & Strawn
John Fair	NRC/NRR/DE
Jim Chapman	Sciencetech
Jason Brown	Westinghouse