

August 17, 2006

Mr. Jack Roe
Director, Operations Support
Nuclear Generation Division
Nuclear Energy Institute
1776 I Street, Suite 400
Washington, DC 20006-3708

SUBJECT: DRAFT NRC REGULATORY ISSUE SUMMARY 2006-XX: NRC STAFF
POSITION ON THE REQUIREMENTS OF 10 CFR 50.36, "TECHNICAL
SPECIFICATIONS," REGARDING LIMITING SAFETY SYSTEM SETTINGS
DURING PERIODIC TESTING AND CALIBRATION OF INSTRUMENT
CHANNELS

Dear Mr. Roe:

The purpose of this letter is to address the points raised in your letter to Ms. Catherine Haney, Nuclear Regulatory Commission (NRC), dated July 14, 2006 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML061980221). This letter followed your participation in a public meeting regarding the subject draft Regulatory Issue Summary (RIS) held on July 11, 2006 (Accession No. ML020170281).

In this letter and attachments, thereto, you raised the following points: 1) publication of the RIS should be deferred; 2) the revised wording of Enclosure 2 should be considered; 3) "the simplest resolution pathway [resolving concerns related to limiting safety system setpoints (LSSS)]" would be a model safety evaluation published as part of the consolidated line item improvement process (CLIIP); 4) the importance of public comment before generic communications are published; 5) the RIS may constrain what can be proposed in Technical Specification Task Force (TSTF) traveler TSTF-493, "Clarify Application of setpoint Methodology for LSSS Functions"; 6) publication of a RIS involves additional review fees that could be reallocated to other projects; and 7) a RIS can have a significant impact on plant operations. Each of these points is discussed in the following paragraphs.

The NRC staff has had numerous public meetings over an extended period of time concerning issues related to LSSS setpoints in technical specifications. You acknowledged in Enclosure 1 to your letter dated July 14, 2006, that "All parties recognized the joint NRC and Industry efforts that have brought the setpoints issue close to resolution." We believe this is an appropriate juncture to communicate our position regarding this matter in the form of a RIS.

In finalizing the RIS, NRC staff has thoughtfully considered both the information exchanged during the July 11, 2006, public meeting and the additional suggestions included in Enclosure 2 to your letter dated July 14, 2006. We believe that the RIS, when issued, will have effectively addressed the suggestions in Enclosure 2 of your letter, as well as points raised during the July 11, 2006, public meeting.

Issuing the RIS allows NRC staff to effectively communicate our position on issues that could adversely affect equipment operability determinations; an acceptable approach for LSSS related license amendments; and our determination that these issues do not involve a safety concern that necessitates immediate action. The RIS, when issued, will be readily available to licensees and the public. Subsequent to issuance of the RIS, it is expected that licensees will review the information provided in the RIS, and use the information appropriately in the continued operation of their facilities.

While the TSTF traveler process is an established method of developing a model technical specification acceptable to the NRC staff and is appropriate for this technical issue, the process, in and of itself, does not "resolve issues." In a similar vein, the CLIIP process provides an efficient pathway for modifying technical specifications. However, its effect is limited to only those licensees that choose to implement the CLIIP. Further, final NRC acceptance of a TSTF traveler followed by promulgation of a CLIIP has typically involved a number of iterations with industry on the traveler followed by solicitation of public comment on the proposed CLIIP and No Significant Hazards Consideration Determination and subsequent NRC staff disposition of any comments.

The opportunity for public comment on a proposed CLIIP or a generic communication, such as a Generic Letter, provides a valuable opportunity to receive input from both industry and other stakeholders. Nuclear Reactor Regulation (NRR) Office Instruction LIC-503, "Generic Communications Affecting Nuclear Reactor Licensees" (Accession No. ML043150304) contains the guidance NRC staff uses to determine what type of opportunity for public discussion or comment will be provided for a specific generic communication.

As previously discussed, the issues associated with the subject RIS have been the subject of numerous public meetings over an extended period of time. We do not anticipate issuance of this RIS to adversely impact completion of the related TSTF traveler which the NRC staff continues to support. Rather, it may facilitate convergence on an acceptable TSTF traveler, by formally documenting the NRC staff positions on these issues.

In your letter you reiterated concerns associated with licensee fees and the appropriate application of NRC resources originally voiced during the July 11, 2006, public meeting. In accordance with NRR Office Instruction COM-102, "NRR Interfaces with the Office of the Inspector General" (Accession No. ML030270491) these concerns have been referred to the NRC Office of the Inspector General for analysis.

We are confident that licensees understand that a RIS does not require specific actions or a written response. We also recognize that licensees may, after reviewing the information provided in this RIS, determine that plant specific actions are appropriate. This is consistent with the intent of a RIS as established in LIC-503.

Mr. J. Roe

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Finally, I want to thank you for your participation in the July 11, 2006, meeting and your letter dated July 14, 2006. If you have any questions concerning this matter, please feel free to contact me or Mr. Christopher Jackson of my staff.

Sincerely,

/RA by J. Lubinski for/

Ho K. Nieh, Acting Director
Division of Policy and Rulemaking
Office of Nuclear Reactor Regulation

cc: Mike Schoppman, NEI

Mr. J. Roe

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Finally, I want to thank you for your participation in the July 11, 2006, meeting and your letter dated July 14, 2006. If you have any questions concerning this matter, please feel free to contact me or Mr. Christopher Jackson of my staff.

Sincerely,

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Division of Policy and Rulemaking
Office of Nuclear Reactor Regulation

cc: Mike Schoppman, NEI

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