

The NRC staff is concerned regarding the nomenclature used in this FAQ. Existing Engineering Equivalency Evaluations is interpreted by the NRC staff to be evaluations that can show that a feature is equivalent to a rated or compliant component. FAQ-33 takes the approach that EEEs are "adequate for the hazard" evaluations. During the last FAQ meeting the FAQ writer indicated they would clarify this issue, but the NRC has not received the clarification yet. Regardless of the lack of clarification, the NRC offers the following comments on the technical aspects of FAQ-33.

1) At various points in the FAQ the term "acceptable" is used. Acceptable is a word reserved for the regulator, and is not appropriate for use in these licensee evaluations, since NEI 04-02 is clear at the end of section 4.3.1 that, "[these evaluations] are not considered previously approved by the NRC for the purposes of superseding the requirements in Chapter 3." Therefore, although the NRC staff is providing input on how to perform these "adequate for the hazard" evaluations, unless the evaluation is docketed and submitted to the NRC as part of a license amendment and approved, the evaluation will continue to be subject to NRC inspection and possible findings or violations. Therefore, for the revised section 4.3.1, change the words, "determining the acceptability of" to "evaluating," or other words chosen by the FAQ writer.

The word acceptable is also used in the second paragraph of the new section B.3. Suggest changing the text of that sentence to remove the word acceptable.

2) Section 4.3.2, includes a revision to include "adequate for the hazard" evaluations. NEI 04-02, Section 4.3.2, relates to Chapter 4 of NFPA 805. It would appear that these "adequate for the hazard" evaluations pertain to those attributes in NFPA 805 Chapter 3 that are required by Chapter 4 (suppression, detection, barriers, ERFBS). Provide a technical justification of how these evaluations will be applied to Chapter 4, of NFPA 805 and limited to just those attributes of Chapter 3 that are required by Chapter 4.

3) In the bulleted section, the fourth bullet appears to be the most important bullet. Suggest moving it to the top and providing all other bullets as clarification for this bullet.

4) In the second bullet, it is not clear what the difference between qualitative and performance based. Provide clarification.

5) The sixth bullet is unclear. ". . . clearly bound changing plant conditions" is undefined as to what the intent is. Is this referring to transient conditions such as temporary storage, maintenance activities, hot work, etc.? Or is it referring to permanent plant changes?

6) Will "adequate for the hazard" evaluations be included in the monitoring program? Provide justification.

7) In the second set of bullets, an additional option is to bring the feature into compliance.

8) The last set of bullets suggests that the evaluations be included in the transition report. Is it the intent of the FAQ that the transition report will be submitted to the NRC for approval? If so, this should be made clear.

9) The documentation in the transition report should also include a summary of the evaluation. If the transition report is submitted to the NRC, the FAQ should detail the level of detail to provide to the NRC in order for the NRC to provide a sufficient review to determine acceptability. If the

licensee intends to submit the transition report, but not get approval for these, "adequacy for the hazard," evaluations, this should be explained as well.

10) Relying on NEI 02-03, and its reference to NEI 00-01, is not correct since the endorsed version of NEI 00-01 no longer contains Appendix E. NRC NUREG-1852 should be used.

11) Bullet 3, "appropriate use" should also consider evaluations that directly conflict with the text of NFPA 805. Deviations from specific requirements of Chapter 3 of NFPA 805 require a license amendment.

Editorial Comments

A) Provide reference information and version information for NEI 02-03