

May 5, 2008

Mr. Keith J. Polson
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P. O. Box 63
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SUBJECT: NINE MILE POINT NUCLEAR STATION, UNIT NOS. 1 AND 2 - AUDIT OF THE LICENSEE'S MANAGEMENT OF REGULATORY COMMITMENTS (TAC NOS. MD8494 AND MD8495)

Dear Mr. Polson:

An audit of the commitment management program for Nine Mile Point Nuclear Station (NMPNS), Unit Nos. 1 and 2 was performed onsite and in the Nuclear Regulatory Commission (NRC) office on April 21 - 24, 2008. 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.

The NRC staff appreciates the resources that were made available by your staff for performing the audit. If you have any questions, I may be reached at (301) 415-1030.

Sincerely,

/RA/

Richard V. Guzman, Senior Project Manager
Plant Licensing Branch I-1
Division of Operating Reactor Licensing
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

In SECY-00-045, "Acceptance of NEI [Nuclear Energy Institute] 99-04, 'Guidelines for Managing NRC [U.S. Nuclear Regulatory Commission] Commitments,'" dated February 22, 2000, the NRC staff informed the Commission that it had found that NEI 99-04, "Guidelines for Managing NRC Commitment Changes," contains acceptable guidance for controlling regulatory commitments made by power reactor licensees to the NRC. A "regulatory commitment," as defined in NEI 99-04, 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.

The NRC staff has agreed that NEI 99-04 provides acceptable guidance to licensees for the control of regulatory commitments made to the NRC staff. See Regulatory Issue Summary 2000-17, "Managing Regulatory Commitments Made by Power Reactor Licensees to the NRC Staff," dated September 21, 2000. The commitments will be controlled in accordance with the licensee's Commitment Management Program (CMP) in accordance with NEI 99-04. Any change to the regulatory commitments is subject to licensee management approval and subject to the procedural controls established at the plant for commitment management in accordance with NEI 99-04, which include appropriate notification of the NRC. In accordance with NEI 99-04, the NRC is informed of any regulatory commitment change that has safety or regulatory significance.

NEI 99-04 provides the NRC staff and its stakeholders with a common reference for handling regulatory commitments made by the licensees for commercial nuclear reactors to the NRC staff. The NRC's NRR Project Managers 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 (e.g., amendments, reliefs, exemptions), and activities (e.g., bulletins, generic letters).

2.0 AUDIT PROCEDURE AND RESULTS

The audit was performed onsite on April 24, 2008; in-office work was performed before and after the audit. The audit examined the NMPNS regulatory commitment management program and its commitment tracking system, since completion of the prior 3-year audit in December 2003 (Agencywide Document Access and Management System (ADAMS) Accession No. ML033070402).

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. For commitments that had not yet been implemented, the NRC staff aimed to ascertain that those commitments had been captured in an effective program for future implementation.

2.1.1 Audit Scope

NRR Office Procedure LIC-105, "Managing Regulatory Commitments Made By Licensees to the NRC," limits the audit of regulatory commitments to those made in writing to the NRC as a result of past licensing actions (amendments, reliefs, exemptions, etc.) or licensing activities (bulletins, generic letters, etc.). Accordingly, the commitments integrated into the final safety analysis report (FSAR), quality assurance program, site security plan, emergency plan, or other documents governed by a change-control mechanism contained in regulations such as Title 10 of the *Code of Federal Regulations* (10 CFR), 10 CFR 50.59 or 50.54 are excluded from the scope of the audit.

Before the audit, the NRC staff searched ADAMS for the licensee's licensing actions and licensing activity submittals in the last 3 years. The NRC staff used this source and the criteria in LIC-105 to select from regulatory commitments contained in this population for the audit. These regulatory commitments are shown on Table 1 (attached). The scope of regulatory commitments selected for the audit, along with various source documents, was provided to NMPNS a few days in advance of the site visit to facilitate an effective audit.

NMPNS commitments are computerized under the title "Nuclear Commitment Tracking System (NCTS)." The NCTS database can be sorted to produce a variety of commitment listings. The NRC staff accessed a listing of an estimate of hundreds 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 (bulletins, generic letters, 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 are controlled by the licensee's LER process, which is imposed by 10 CFR 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.

- (5) Commitments made as part of Condition Reports. These commitments are controlled by the licensee's corrective action process which is a separate licensee-controlled management program than the NCTS.

The NRC staff searched the licensee's licensing action and licensing activity submittals dated in the last 4 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.

NMPNS manages their regulatory commitments through its "Constellation Nuclear Generation [CNG] Fleet Administrative Procedure - Commitment Management," CNG-NL-1.01-1006, Revision 0. The fleet procedure became effective on September 19, 2007, and is also applicable to Calvert Cliffs and R.E. Ginna Nuclear Power Plants as well as for corporate offices of CNG. The procedure describes the process and establishes the controls for identifying, implementing, closing, changing, and managing regulatory commitments in correspondence between CNG and the NRC or other regulatory agencies.

2.1.2 Audit Results

The NRC staff reviewed reports generated by the tracking program for the commitments listed in Table 1 to evaluate the status of completion. The NRC staff found that the licensee's commitment tracking program had captured all the regulatory commitments that were identified by the NRC staff before the audit.

The NRC staff reviewed reports generated by the tracking program for the commitments listed in Table 1 to evaluate the status of completion. The NRC staff found that the licensee's commitment tracking program had adequately captured all of the audited regulatory commitments.

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 tasks and 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 also 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 primary focus of this part of the audit is the licensee's performance related to implementing controls for modifying or deleting commitments made to the NRC in order to ensure that changes to regulatory commitments are evaluated in accordance with the licensee's programs and procedures, that the licensee's technical evaluations adequately justify the change, and that the NRC is informed of regulatory commitment changes that have safety or regulatory significance in accordance with NEI 99-04.

The NRC staff selected a sample of individual and unrelated regulatory commitments that were approved by the NRC to justify a licensing action or resolve a licensing activity. This sample emphasized regulatory commitments encompassing a variety of systems, engineering disciplines, and licensing actions. There was one commitment change found in the sample (Item No. 6 in Table 1).

The NRC staff reviewed the licensee's procedure entitled, "Constellation Nuclear Generation Fleet Administrative Procedure – Commitment Management," CNG-NL-1.01-1006, Revision 0, against NEI 99-04. Section 5.4 and Attachments 1 and 2 provide details regarding making changes to a commitment. In general, CNG-NL-1.01-1006, Revision 0, is consistent with the guidance of NEI-99-04: it sets forth the need for identifying, tracking, and reporting commitments, and it provides a mechanism for changing commitments which includes notifying the NRC.

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 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 had implemented an effective program to manage regulatory commitment changes.

4.0 LICENSEE PERSONNEL CONTACTED FOR THIS AUDIT

John Dosa
Dennis Vandeputte

Attachment:
Table 1, Audited: Written Commitments and Related Information

Principal Contributor: R. Guzman

Date: May 5, 2008

TABLE 1

AUDITED: WRITTEN COMMITMENTS AND RELATED INFORMATION

Item Number	NMPNS Submittal /Source Document(s)	NRC TAC No.	NRC Issuance	Summary of Commitment	Licensee Implementation Status (Documents listed are in NCTS Database)
1	12/14/2006, NMP1L 2106	MD3896	Amendment No. 194, letter dated 12/19/07 for Unit 1	<p>Complete activities associated with implementation of LAR, these are activities:</p> <ul style="list-style-type: none"> • Specify that during fuel handling/core alterations, the ability to filter and monitor any release should be maintained; ability to restore secondary containment capability during fuel handling/core alterations should be maintained; specify that the Shift Manager will ensure that the necessary actions are taken to close all external openings in the secondary containment • Environmental qualification for the LPS components located in a harsh environment will be established in accordance with the station design change process prior to completing implementation of the AST LAR • The Emergency Operating Procedures and Severe Accident Procedures will be revised, as appropriate, to reflect the post-LOCA function of the LPS and to assure that, once initiated, the entire contents of LPS storage tank are injected to accomplish suppression pool pH control function • Training will be provided to licensed operators and shift technical advisors for the procedure revisions that specifically address sodium pentaborate solution injection for pH control following LOCA 	Completed (Commitment No. 504627)

TABLE 1

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Item Number	NMPNS Submittal /Source Document(s)	NRC TAC No.	NRC Issuance	Summary of Commitment	Licensee Implementation Status (Documents listed are in NCTS Database)
2	3/30/2007, NMP2L 2151	MD5233	Amendment No. 123, letter dated 2/27/08 for Unit 2	Raise the standby liquid control (SLC) system pump discharge relief valve set pressure to 1400 psig.	Completed (Commitment No. 504631)
3	3/8/2007, NMP2L 2149	MD4703	Amendment No. 118, letter dated 7/30/07 for Unit 2	NMPNS, LLC will establish the Technical Specification Bases for LCO 3.0.8 as adopted with the applicable LAR	Completed (Commitment No. 504629)
4	5/11/2006, NMP2L 2127	MD1859	Amendment No. 117, letter dated 12/14/06 for Unit 2	Raise the standby liquid control (SLC) system pump discharge relief valve set pressure to 1394 psig.	Completed (Commitment No. 504614)
5	12/16/2005 NMP1L 2000	MC9626	Amendment No. 192, letter dated 1/31/07 for Unit 1	NMPNS will relocate the surveillance testing requirements for the core spray header ΔP instrumentation to licensee-controlled documents which are controlled under the provisions of 10 CFR 50.59	Completed (Commitment No. 504604)
6	03/22/2005, 11/1/2005 NMP1L 1939 NMP1L 1997	MC5973 MC5974	Bulletin 2005-01 issued on 2/11/05 Completion letter dated 5/31/06 for Units 1 and 2	Implementation of actions associated with Bulletin 2005-01, "Material Control and Accounting at Reactors and Wet Spent Fuel Storage Facilities." Original commitment was made by NMPNS letter dated 3/22/05. By letter dated 11/1/05, NMPNS submitted a change to its original commitment involving exceptions to visual confirmation of special nuclear material items due to physical/view obstructions and restricted visual access.	Completed (Commitment No. 504572)

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Item Number	NMPNS Submittal /Source Document(s)	NRC TAC No.	NRC Issuance	Summary of Commitment	Licensee Implementation Status (Documents listed are in NCTS Database)
7	4/19/2004 NMP1L 1828	MC2734	Amendment No. 186, letter dated 1/25/05 for Unit 1	<ul style="list-style-type: none"> • NMPNS will enhance the existing NMP1 surveillance program to include monitoring and assessing the effects of the 24-month (30-month maximum) IRM calibration frequency on instrument drift and its effect on safety. • Relocate Control Rod Withdrawal Block Limiting Conditions for Operation and Surveillance Requirements for specified instrument parameters 	Completed (Commitment No. 504529)
8	8/22/2003 1/12/2004 NMP2L 2108	MC0594	Amendment No. 113, letter dated 5/7/04 for Unit 2	Complete activities associated with implementation of LAR; update existing calculations to formally incorporate the 84 degrees Fahrenheit change after license amendment is issued by NRC	Completed (Commitment No. 504522)
9	7/30/2007 NMP2L 2169	MD6280	Amendment No. 122, letter dated 2/11/08 for Unit 2	To reduce the potential for corrosion product generation, the method for stroke testing the drywell spray system isolation valves will be revised to ensure that the drywell spray system remains dry	Completed (Commitment No. 504637)
10	4/10/08 NMP1L 2209	MD7848	Generic Letter 2008-01 issued on 1/11/08.	<ul style="list-style-type: none"> • Perform and complete required plant walkdowns and inspections associated with NRC Generic Letter 2008-01 that cannot be completed with plant online for Nine Mile Point Unit 1. • Submit written response to the NRC informing them of the activities performed consistent with the requested actions and information required by Generic Letter 2008-01 	Ongoing (Commitment No. 504641)