

January 30, 2009

Anthony Pietrangelo, Vice President
Nuclear Energy Institute
1776 I Street, N.W., Suite 400
Washington, D.C. 20006-3708

Dear Mr. Pietrangelo:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to the Nuclear Energy Institute's (NEI) e-mail request from John Butler to Joseph Giitter on October 9, 2008, to review and comment on NEI's white paper, "Regulatory Issue Screening Process" (RISP)¹, the October 30, 2008, Licensing Action Task Force meeting to review and comment on NEI's RISP white paper, and your December 12, 2008 letter, "Regulatory Issue Resolution Process" (RIRP)². Receipt of the December 12 letter diverted the staff from finalizing and delivering its response on the RISP whitepaper to NEI as originally intended by the end of 2008.

The NRC understands that NEI's primary objective is to increase dialog concerning plant specific issues that have generic applicability. Open communication between the NRC and all stakeholders throughout the regulatory process, whether for licensing issues or inspection findings, is paramount to ensuring mutual understanding and facilitating our shared goal of a safety-focused, effective and efficient regulatory framework for commercial power reactors. The NRC staff has reviewed and considered the RISP white paper, although a full review of the 20 examples provided in Appendix A of the white paper is not yet complete. The staff does not generally agree with the characterization of the issues in the white paper Appendix.

¹ NEI's white paper, "Regulatory Issue Screening Process," dated October 2008, Agencywide Documents Access and Management Systems (ADAMS) Accession Number ML083160010.

² NEI's letter to Eric Leeds, "Regulatory Issue Resolution Process," dated December 12, 2008, ADAMS Accession Number ML083520100

The NRC staff believes that NEI's proposed RISP process has positive aspects warranting further discussion. The process outlines numerous potential options that could be employed by industry to identify these issues. NEI is encouraged to act as a clearinghouse to identify and inform commercial reactors of issues and work with NRC to facilitate their resolution.

In general, the NRC staff notes that the described process in the RISP white paper does not adequately propose the threshold of issues that would be considered nor does it propose the threshold of what would be considered non-safety or risk significant. The NRC staff believes that in most instances, existing NRC regulatory processes are sufficient to adequately address issues. The proposed concept of mediation to resolve impasses may lead to staff concerns regarding sound and effective regulation. For example, some staff feel that mediation could undermine public confidence or lead to the perception of less transparency and consistency in regulatory decisions. Efforts to include mediation as a part of any proposed process will likely require significant dialogue. The staff will be interested to see a more detailed proposal and basis from NEI regarding how some form of facilitation could be incorporated to resolve issues. The NRC staff's detailed comments on the RISP whitepaper may be found at ADAMS ML090230024.

Regarding your December 12 letter proposing a RIRP and use of pilot issues to clarify issue resolution, the staff believes that such a process is the logical endpoint that the RISP whitepaper seeks to achieve. Therefore, the staff believes these two issues are necessarily linked and that a future public meeting on these two topics would be valuable. Moving forward, the NRC proposes that a public meeting be scheduled during February 2009, to continue discussions on topics within the NEI proposals.

I acknowledge that you will be industry's executive sponsor and I will likewise fulfill the role as the NRC's executive sponsor for this activity. We appreciate your commitment to work closely with us and other stakeholders to ensure that the regulatory process effectively supports the safety, reliability and public confidence in nuclear energy.

Thank you for the opportunity to review and comment on your proposed process.

Sincerely,

/RA/

Eric J. Leeds, Director
Office of Nuclear Reactor Regulation

cc: John Butler, NEI
Tom Houghton, NEI
Michael Shoppman, NEI

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Eric J. Leeds, Director
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