

July 8, 2009

Mr. Russ Bell, Director
New Plant Licensing
Nuclear Generation Division
Nuclear Energy Institute
1776 I Street, NW, Suite 400
Washington, DC 20006-3708

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION RESPONSE REGARDING THE NUCLEAR ENERGY INSTITUTE (NEI) REQUEST FOR ENDORSEMENT OF NEI 08-02 "PROBLEM IDENTIFICATION AND RESOLUTION FOR NEW NUCLEAR PLANTS UNDER CONSTRUCTION" REVISION 1, APRIL 2009.

Dear Mr. Bell:

This letter responds to your letter dated April 22, 2009, which requested NRC review and further discussion on NEI 08-02, *Problem Identification and Resolution for New Nuclear Power Plants During Construction*, with the goal of NRC endorsement in a regulatory guide (ADAMS Accession No. ML0911705940). The NRC has held various public meetings to discuss NEI 08-02, and has documented the March 9, March 24, and May 13, 2009, meetings in meeting summaries (ADAMS Accession Nos. ML090990033, ML091140058, and ML091630136, respectively). The public meeting held on May 13, 2009, provided NEI with the staff's written comments regarding NEI 08-02, Revision 1. Following constructive dialogue on each of the comments, NEI representatives agreed to consider the NRC staff comments and address them, as appropriate, in the next revision of NEI 08-02. The list of staff comments discussed at the May 13, 2009, public meeting is enclosed with this letter for your convenience.

In addition to resolving the comments discussed at the public meeting on May 13, 2009, the following issues must be resolved in order for NRC to endorse NEI 08-02.

1. NEI 08-02, Revision 1, states that the document provides guidance for meeting the requirements of Appendix B to 10 CFR Part 50. The depth and extent of this document does not provide for complete implementation of Appendix B independent of the implementation of other licensee quality assurance commitments as described in the quality assurance program descriptions. Implementation of NEI 08-02, Revision 1, with appropriate adjustments, would appear to implement Criterion XVI of 10 CFR 50 Appendix B for new nuclear reactors under construction; this should be clearly reflected in NEI 08-02. NEI 08-02 should make clear that the document will not supersede any corrective action program already defined in an NRC-approved quality assurance program description.
2. NEI 08-02 must adequately describe the process to determine significance of conditions adverse to quality. NEI 08-02, Attachment 1, *PI&R Process Flow*, illustrates two instances where significance of an issue is determined but the description provided in the narrative does not provide detail regarding what criteria (e.g. timeliness) are required to accomplish the objective. One of the two instances to determine significance is independent of the NEI 08-02 processes to address conditions adverse to quality or significant conditions adverse to quality, allowing a potentially significant issue to be outside of both processes for an indeterminate amount of time.

3. The process to disposition ITAAC-related conditions within NEI 08-02 must be detailed enough to implement NEI 08-01, *Industry Guideline for the ITAAC Closure Process Under 10 CFR Part 52*. NEI must address how safety-related and non-safety-related ITAAC-related conditions will be dispositioned (e.g. significance, timeliness, management reporting) within this program.
4. NEI should reconsider the use of the term Problem Identification and Resolution (PI&R) for this application as it is a term already in use in the reactor oversight program for operating reactors and could create confusion. Alternatively, NEI 08-02 could be developed to have all the attributes of an operating reactor PI&R program, such as, tracking and resolving conditions adverse to quality and significant conditions adverse to quality within the same process.

We await your response in order to proceed with our review. If you have any questions with regard to this letter, or its enclosures, please contact Joelle Starefos at (301) 415-6091, or email Joelle.Starefos@nrc.gov.

Sincerely,

/RA John Tapper for/

Glenn M. Tracy, Director
Division of Construction Inspection
& Operational Programs
Office of New Reactors

Project No. 0698

Enclosure:
As stated

cc w/ encl: see next page

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NRC Staff Comments for Discussion at Public Meeting on May 13, 2009

**NEI 08-02 “Problem Identification and Resolution for
New Nuclear Power Plants During Construction, Revision 1**

- ***The description of the Problem Identification and Resolution (PI&R) program lacks consistency with the terms and concepts present in 10 CFR 50 Appendix B Criterion XVI and other regulatory documents. The program document should demonstrate how it is implementing regulatory requirements and commitments specified in the licensing basis documents.***
 - The use of terms like PI&R and corrective action program (CAP) can be a source of confusion. The document should state more clearly how it is trying to implement requirements of 10 CFR 50 Appendix B Criterion XVI and NQA-1-1994.
 - The licensing documents under review by the NRC state that the CAP, within the quality assurance program (QAP), will identify all Conditions Adverse to Quality (also identified in NEI 06-14A Rev 6). Once identified, further review will be performed to determine if it is a Significant condition Adverse to Quality; at which time, causal analysis and proper management notification will be done. NEI 08-02 Rev 1 doesn't appear to consider CAQs as part of the CAP.
 - Should NEI 08-02 address evaluation of conditions for reporting requirements? For example, reporting under 50.55e.
 - NEI 08-02, section 3.4, states “If the program has been contracted to others then the purchaser is responsible for the overall program...” Language should reflect that suppliers/contractors may be made responsible for the implementation of the program but licensees are responsible for the overall program effectiveness.
 - The specific concepts defined in the document can be confused with the same terms as defined by the licensing documents (e.g. CAP, extent of condition, SCAQ). The document should refrain from creating new definitions and use terminology already in use.
 - The concept of work processes is confusing within the framework of the document. It does not make it clear how they are part of the Corrective Action Program (currently highlighted as part of the PI&R), nor does it define each as a “quality” process. NEI 08-02 states in Section 5 that the QAP will make reference to the work processes but a sample QAP currently submitted to NRC does not address the work processes.

- **The document should clearly define the baseline program for implementing the Corrective Action Program. Including how determination of thresholds would capture conditions adverse to quality (CAQ) and exactly what process would drive a CAQ to be processed as a significant condition adverse to quality (SCAQ). It should be clear how the process will effectively implement trending that would drive an identified CAQ to become an SCAQ.**
 - The method or process from identification to disposition should be clearer. For example, what will initiate the process? Who will determine significance?
 - NEI 08-02 states “The PI&R process is the primary means for workers to identify problems. There are additional processes that can be used by workers to identify problems including reporting to management, reporting to QA, Employee Concerns program, reporting to NRC, etc.” The references to these alternative sources should be eliminated if they infer equivalent controls outside of regulatory requirements. Otherwise, the statement should make it clear how these programs inform the CAP for proper disposition.
- **Description of how ITAAC will be handled by NEI 08-02 should be in alignment with intentions described in NEI 08-01. Conditions identified to have affected an ITAAC should reflect the appropriate characterization (e.g. CAQ, SCAQ, new process, etc.) consistent with needs of NEI 08-01.**

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