



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 11, 2009

Mr. Jack M. Davis
Senior Vice President and
Chief Nuclear Officer
Detroit Edison Company
Fermi, Unit 2
6400 North Dixie Highway
Newport, MI 48166

SUBJECT: FERMI NUCLEAR POWER PLANT, UNIT 2 - AUDIT OF THE LICENSEE'S
MANAGEMENT OF REGULATORY COMMITMENTS (TAC NO. ME2208)

Dear Mr. Davis:

In Regulatory Issue Summary 2000-17, "Managing Regulatory Commitments Made by Power Reactor Licensees to the NRC Staff," dated September 21, 2000, the U.S. Nuclear Regulatory Commission (NRC) informed licensees that the Nuclear Energy Institute (NEI) document NEI 99-04, "Guidelines for Managing NRC Commitment Changes," contains acceptable guidance for controlling regulatory commitments and encouraged licensees to use the NEI guidance or similar administrative controls to ensure that regulatory commitments are implemented and that changes to the regulatory commitments are evaluated and, when appropriate, reported to the NRC.

The NRC Office of Nuclear Reactor Regulation has instructed staff to perform an audit of licensees' commitment management programs once every 3 years to determine whether the licensees' programs are consistent with the industry guidance in NEI 99-04, and that regulatory commitments are being effectively implemented.

An audit of Fermi 2's commitment management program was performed at the plant site during the period of October 20, 2009, to October 23, 2009. The NRC staff concludes, based on the audit, that the licensee has a process to properly document and implement the regulatory commitments in accordance with the industry guidance provided in NEI 99-04, e.g., (1) the licensee has implemented NRC commitments on a timely basis; and (2) the licensee has implemented an effective program for managing NRC commitment changes at Fermi 2. Details of the audit are set forth in the enclosed audit report.

J. Davis

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There is no need for the licensee to respond to this letter. The NRC staff appreciates the resources that were made available by your staff during the audit. If you have any questions, please have your staff contact me at (301) 415-8371.

Sincerely,



Mahesh Chawla, Project Manager
Plant Licensing Branch III-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-341

Enclosure:
Regulatory Commitments Audit Report

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
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AUDIT REPORT BY THE OFFICE OF NUCLEAR REACTOR REGULATION

LICENSEE MANAGEMENT OF REGULATORY COMMITMENTS

FERMI 2

DOCKET NO. 50-341

1.0 INTRODUCTION AND BACKGROUND

In Regulatory Issue Summary 2000-17, "Managing Regulatory Commitments Made by Power Reactor Licensees to the NRC Staff," dated September 21, 2000, the U.S. Nuclear Regulatory Commission (NRC) informed licensees that the Nuclear Energy Institute (NEI) document NEI 99-04, "Guidelines for Managing NRC Commitment Changes," contains acceptable guidance for controlling regulatory commitments and encouraged licensees to use the NEI guidance or similar administrative controls to ensure that regulatory commitments are implemented and that changes to the regulatory commitments are evaluated and, when appropriate, reported to the NRC.

The NRC Office of Nuclear Reactor Regulation (NRR) has instructed staff to perform an audit of licensees' commitment management programs once every 3 years to determine whether the licensees' programs are consistent with the industry guidance in NEI 99-04, and that regulatory commitments are being effectively implemented.

NEI 99-04 defines a "regulatory commitment" 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. NRR guidelines direct the NRR Project Manager to 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 (amendments, reliefs, exemptions, etc.) and activities (bulletins, generic letters, etc.). The audit is to be performed every 3 years.

2.0 AUDIT PROCEDURE AND RESULTS

An audit of Fermi 2's commitment management program was performed at the plant site during the period of October 20, 2009 to October 23, 2009. The NRC staff concludes, based on the audit, that the licensee has a process to properly document and implement the regulatory commitments in accordance with the industry guidance provided in NEI 99-04, e.g., (1) the licensee has implemented NRC commitments on a timely basis; and (2) the licensee has implemented an effective program for managing NRC commitment changes at Fermi 2. Details of the audit are set forth in the enclosed audit report.

ENCLOSURE

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 not yet implemented, the NRC staff determines whether they have been captured in an effective program for future implementation.

2.1.1 Audit Scope

The audit addressed a sample of commitments made during the review period. The audit focused on regulatory commitments (as defined above) made in writing to the NRC as a result of past licensing actions (amendments, reliefs exemptions, etc.) or licensing activities (bulletins, generic letters, etc.). Before the audit, the NRC staff searched Agencywide Documents Access and Management System for the licensee's submittals since the last audit and selected a representative sample for verification. The licensee provided the documentation to support the NRC staff's audit in each of the sample areas discussed above. The licensee's documentation included summary sheets providing the status of the commitment and appropriate backup documentation as needed (i.e., plant procedures, examination records, and/or other plant documentation). The attached table summarizes the licensee's commitments and changes to commitments that were audited by the NRC staff and the current status of the licensee's commitments.

The audit excluded the following types of commitments that are internal to licensee processes:

- (1) commitments made on the licensee's own initiative among internal organizational components.
- (2) commitments that pertain to milestones of licensing actions/activities (e.g., response 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.
- (3) 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. Fulfillment of these commitments was indicated by the licensee having taken timely action in accordance with the subject requirements.

2.1.2 Audit Results

The licensee's commitments are tracked by the RACTS (Regulatory Action and Commitment Tracking System) process, as documented in the licensee's procedure MLS10, Revision 11, of the same name. The RACTS process uses a relatively old software technology. The software lacks productivity tools such as spell checking or grammar checking but appears to be able (1) to adequately record activities and; (2) because the RACTS identifier (a 5-digit number) is used in other documentation, to provide an adequate method of linking together the specific documents, records and actions affected as a commitment evolves into full completion, partial completion (and the creation of successor RACTS), or "on-going closed status."

The NRC staff also reviewed plant procedures that had been revised as a result of commitments made by the licensee to NRC. The NRC staff noted that only some of the procedures have annotations to refer to commitments. These annotations would serve to prevent future procedure writers from inadvertently deleting or altering an item without having gone through the commitment change process. However, lack of annotations makes it difficult for a person to follow the commitment tracking and documentation process without getting help from the station personnel. Even with annotations, in many cases, the exact verbiage of the commitments was not incorporated into the procedures. Sometimes, the commitments were divided into more than one step making it difficult to identify the step in the procedure which would implement the commitment.

In many cases, the RACTS system did not identify all the procedures which were affected. The NRC staff also noted frequent typographical errors, although these errors did not have any technical consequence.

The NRC staff reviewed the commitments listed in Table 1 to ensure that the selected commitments are included in the plant database used to track the commitments and evaluate the status of completion of each commitment. The NRC staff found that the licensee's commitment tracking program had captured the regulatory commitments that were identified by the NRC staff before the audit.

The NRC staff also reviewed plant procedures and other design bases documents that had been revised as a result of commitments made by the licensee to NRC. The NRC staff review indicated that the commitments selected for the review were implemented as committed. All the regulatory commitments selected for the audit were being tracked.

Table 1, Item Nos. 1 through 17, summarizes what the NRC staff observed as the current status of licensee commitments reviewed during the audit.

2.2 Verification of the Licensee's Program for Managing NRC Commitment Changes

2.2.1 Change Control Procedure Verification

The NRC staff reviewed the licensee's process for managing commitment changes. The process is documented in procedure MLS10, Revision 11. The analysis and implementation of the proposed changes are documented in Section 6.0 of the procedure and recorded on Forms MLS10002 and MLS10003. Section 6.0 of the procedure specifically refers to NEI 99-04. The forms were compared to similar forms in NEI 99-04, as were MLS10 Revision 11 change process flow charts. The NRC staff noted that RACTS Commitment Flow Chart (Enclosure B) in MLS10, Rev. 11 does not match the corresponding flow chart (Figure A-1 and A-2) in NEI 99-04 in its entirety. Similar is the case with Commitment Change Evaluation Summary form MLS 10002, Revision 2, when compared to the Commitment Evaluation Summary Form (A-3) in NEI 99-04.

Use of the change process was observed during the examination of specific RACTS. The change process generally conformed to the guidance in NEI 99-04 and was effective in determining whether another codified change process (such as 10 CFR 50.59, 10 CFR 50.54, or 10 CFR 50.71(e)), or a license amendment process was appropriate.

Therefore, the NRC staff concludes that the procedures and forms used by the licensee to manage commitments and their changes are appropriate and effective.

2.2.2 Procedure Implementation Assessment

2.2.2.1 Commitment Changes Reported to the NRC

MLS10, Revision 11, section 5.1.1.5 specifies the process to make a commitment change to a RACTS item. It directs the user to not implement the proposed change if it would result in a reduction of the commitment's intent and directs to change process outlined in Section 6.0. During the subject review period, there was only one commitment change which was a result of request for additional information.

2.2.2.2 Commitment Changes Not Reported to the NRC

During the subject review period, there were no commitment changes which need not be reported to NRC.

2.2.2.3 Traceability of Commitments

The NRC staff found this to be very cumbersome process since the procedures did not clearly identify the commitments with the steps in the procedures. Although, in most cases, the commitments are embedded in the procedures within a box; the corresponding steps in the procedure implementing the commitments are difficult to identify without help from plant personnel.

2.3 Internal Audits of Regulatory Commitment Management

MLS10, Revision 11, Step 3.6 contains a statement that "RACTS files were not auditable" followed by an explanation that the RACTS entries contain the minimum information to determine RACTS status and identify supporting information. The NRC staff interviewed the licensee's internal auditing staff to clarify the statement and requested copies of internal audit reports. The internal auditing staff verified that RACTS was not explicitly audited, but would receive auditing attention if it was found to cause the need for corrective action. Based upon the NRC staff review, it appears that the licensee's commitment management process has not been audited.

The licensee however, conducts internal audits of procedures, manual orders, document control and record management program. During these audits, the licensee verifies implementation of the regulatory commitment audits in various plant documentations. Licensee provided Audit Report 08-0109, which was conducted from September 2, 2008, through September 19, 2008. NEI 99-04 emphasizes an "outcomes orientation" versus a "process orientation." The licensee's reliance on performance outcome to determine the need for auditing attention to RACTS is consistent with that viewpoint.

2.4 Audit Observations and Suggestions

1. The commitment tracking and documentation process was not easy to follow without getting help from station personnel. Additionally, the RACTS data base has typographical errors and missing references. It is recommended that the licensee review and correct these errors to improve the implementation and traceability of the affected documents.
2. MLS10 requires imbedding the commitments in procedures; however, the DCR form allows commitments to not be imbedded with Organization Unit Head approval. Also, in accordance with the procedure, the commitments are to be embedded before the applicable section of the procedure. This practice is not followed in all cases.
3. MWC07, Revision 4 did not identify the changes by revision bars. The description of change section only stated that this revision is extensive and will not use revision bars.
4. When commitments are incorporated in procedures, the actual wording of the commitment is imbedded in a boxed section; however, some examples were found where the actual step in the procedure used different wording than the exact verbiage of the regulatory commitment.
5. MLS10, Enclosure A, Page 2 states that a default implementation of 90 days should be used if no specific date is committed to. It is not clear why some commitments would be made without any dates attached to them. It is recommended that the source of the 90 days period be investigated and justified.
6. MLS08 allows certain procedures to be revised after implementation if justified. This could result in some procedures being used without any knowledge of commitments against these procedures. Therefore it is not clear how users of these procedures would have knowledge of the commitment being already implemented but not included in the procedure, leaving a potential of non-compliance with the commitment. It is recommended that the licensee adhere to implementing all the procedures at the same time and not use a staggered approach.
7. It appears that MLS10 and NEI 99-04 are different in some areas (e.g. MLS10 flow chart in Enclosure B vs. NEI 99-04, Figure A-1, A-2, and Form MLS10002 vs. the form in NEI 99-04). It is recommended that these differences in MLS10 are reviewed and either justified or changed to match the NEI document.

3.0 CONCLUSION

The NRC staff concludes that, based on the above audit, (1) the licensee had implemented, and is tracking for future implementation regulatory commitments; and (2) the licensee has implemented an effective program to manage regulatory commitment changes.

The implications of processing safety-related regulatory commitments in a process not subject to internal audit needs further study.

4.0 LICENSEE PERSONNEL CONTACTED FOR THIS AUDIT

A. I. Hassoun
Joseph M. Pendergast
Jeff Olmhavsen
Jerome R. Flint
Joseph Lavelline
John Louwers
Rodney Johnson
Colleen Walker

Principal Contributors: M. Chawla

TABLE 1

AUDIT SUMMARY

Item No.	Licensee's Commitment Tracking No. RACTS	Commitment Type	Licensee's Submittal	Description of the Commitment	Scheduled/ Implementation Date	Implementation Status
1	20240	Continuing Compliance	NRC-07-0001	Detroit Edison commits to the guidance of NUMARC 93-01 Section 11, which provides guidance and details on the assessment and management of risk during maintenance.	9/20/07	Closed
2	20241	Continuing Compliance	NRC-07-0001	Detroit Edison will revise procedures to ensure that the risk assessment and management process described in NEI 04-08 is used whenever a barrier is considered unavailable and the requirements of LCO 3.0.9 are to be applied, in accordance with an overall Configuration Risk Management Program (CRMP) to ensure that potentially risk significant configurations resulting from maintenance and other operational activities are identified and avoided.	9/20/07	Closed
3	20242	Continuing Compliance	NRC-07-0012	Pending NRC approval and the implementation of the proposed license amendment in letter NRC-07-0012, Detroit Edison will maintain administrative controls to ensure that EDG minimum output voltage acceptance criterion for Division I EDGs is equal or greater than 3873 volts.	11/30/07	Closed
4	20249	Continuing Compliance	NRC-07-0040	Elective testing or maintenance of safety systems and important non-safety equipment including offsite power systems (i.e., station service transformers) that significantly increases the likelihood of a plant transient or loss of offsite power will not be scheduled concurrently with planned EDG outages utilizing the extended Completion Time. In	01/31/08	Closed

Item No.	Licensee's Commitment Tracking No. RACTS	Commitment Type	Licensee's Submittal	Description of the Commitment	Scheduled/ Implementation Date	Implementation Status
				addition, no discretionary switchyard maintenance will be allowed. If any such testing or maintenance activities must be performed while the extended Completion Time is in effect, a 10 CFR 50.65(a)(4) evaluation will be performed.		
5	20249	Continuing Compliance	NRC-07-0034	No elective maintenance or testing that affects the reliability of the train associated with the EDGs in the other division will be scheduled during the extended Completion Time. If any such testing and maintenance activities must be performed while the extended Completion Time is in effect, a 10 CFR 50.65(a)(4) evaluation will be performed.	01/31/08	Closed
6	20250	Continuing Compliance	NRC-07-0034	The EDG extended Completion Time will not be entered for preplanned maintenance if severe weather conditions are expected.	11/30/07	Closed
7	20251	Continuing Compliance	NRC-07-0034	The EDG extended Completion Time will not be entered for preplanned maintenance if grid stress conditions are expected to be high, resulting in a significant potential for the grid to become unstable or unable to supply post trip offsite power minimum voltages.	11/31/07	Closed
8	20252	Continuing Compliance	NRC-07-0034	The system load dispatcher will be contacted at least once per day to ensure no significant grid perturbations are expected during the extended Completion Time. The system operator will inform the plant operator if conditions change during the extended Completion Time (e.g., unacceptable voltages could result due to a trip of the nuclear unit).	11/30/07	Closed
9	20253	Continuing Compliance	NRC-07-0034	Elective testing or maintenance of safety systems and important non-safety equipment including offsite power systems (i.e., station	11/30/07	Closed

Item No.	Licensee's Commitment Tracking No. RACTS	Commitment Type	Licensee's Submittal	Description of the Commitment	Scheduled/ Implementation Date	Implementation Status
				service transformers) that significantly increases the likelihood of a plant transient or loss of offsite power will not be scheduled concurrently with planned EDG outages utilizing the extended Completion Time. Elective operation of the plant that significantly increases the likelihood of a plant transient or loss of offsite power will not be scheduled concurrently with planned EDG outages utilizing the extended Completion Time. In addition, no discretionary switchyard maintenance will be allowed. If any such testing or maintenance activities must be performed while the extended Completion Time is in effect, a 10 CFR 50.65(a)(4) evaluation will be performed.		
10	20254	Continuing Compliance	NRC-07-0034	Steam-driven High Pressure Coolant Injection (HPCI) and Reactor Core Isolation Cooling (RCIC) systems will be controlled as "protected equipment," and will not be taken out of service for planned maintenance while an EDG is out of service for planned maintenance utilizing the extended Completion Time.	11/30/07	Closed
11	20255	One-Time Action	NRC-07-0036	Calibration of the Primary Containment High Range Radiation Monitor detectors using low range radiation source will be performed during the Twelfth Refueling Outage scheduled to start on September 29, 2007.	11/09/07	Closed
12	20256	Continuing Compliance	NRC-07-0043	Detroit Edison will maintain administrative controls to ensure that the acceptance criteria for EDG surveillance voltage verification account for potential measurement uncertainty.	12/15/07	Closed
13	20262	One-Time Action	NRC-08-0001	Detroit Edison will establish the Technical Specification Bases for TS B 3.1.3, TS B 3.1.4,	06/30/08	Closed

Item No.	Licensee's Commitment Tracking No. RACTS	Commitment Type	Licensee's Submittal	Description of the Commitment	Scheduled/ Implementation Date	Implementation Status
				and TS B 3.3.1.2 consistent with those shown in TSTF-475, Revision 1, "Control Rod Notch Testing Frequency and SRM Insert Control Rod Action."		
14	20263	One-Time Action	NRC-08-0003	Detroit Edison commits to provide a reanalysis of the SAFER/GESTR-LOCA Loss-of-Coolant Accident to the NRC.	06/30/08	Closed
15	20264	One-Time Action	NRC-08-0032 NRC-08-0064	Detroit Edison will provide all requested information in GL 2008-01 within 9 months of the date of the GL with the exception of information related to portions of the systems that are inaccessible during plant power operation. Detroit Edison will provide the remainder of the requested information by July 31, 2009. Detroit Edison will complete its assessment of those inaccessible portions of the systems or functions during the next Fermi 2 Refuel Outage and provide a supplement to this report with those results within 90 days from startup of the upcoming Refuel Outage but no later than July 31, 2009.	07/31/2009	Closed
16	20269	One-Time Action	NRC-08-0064	Detroit Edison will evaluate the applicability and the need to submit a license amendment request for adopting the pertinent CLIIP at Fermi 2 within 60 days of the issuance of the Notice of Availability in the Federal Register.	Within 60 Days Of The Issuance Of The Notice Of Availability In Federal Register	Open
17	20279	One-Time Action	NRC-09-0026	Detroit Edison will achieve full compliance with the requirements of Attachments 1 and 2 of NRC Order EA-09-072 by October 4, 2009, and will notify the NRC when full compliance with the Order has been achieved.	10/04/2009	Closed

J. Davis

- 2 -

There is no need for the licensee to respond to this letter. The NRC staff appreciates the resources that were made available by your staff during the audit. If you have any questions, please have your staff contact me at (301) 415-8371.

Sincerely,

/RA/

Mahesh Chawla, Project Manager
Plant Licensing Branch III-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-341

Enclosure:
Regulatory Commitments Audit Report

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DATE	12/07/09	12/04/09	12/11/09

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