



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

June 9, 2010

Ms. Julie Keys, Senior Project Manager
Engineering
Nuclear Generation Division
Nuclear Energy Institute
1776 I Street N. W., Suite 400
Washington D.C. 20006-3708

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION STAFF COMMENTS ON
NUCLEAR ENERGY INSTITUTE TECHNICAL REPORT 06-02, REVISION 1,
"LICENSE AMENDMENT REQUEST (LAR) GUIDELINES"

Dear Ms. Keys:

By letter dated December 8, 2009, the Nuclear Energy Institute (NEI) submitted Revision 1 to technical report, NEI 06-02, "License Amendment Request (LAR) Guidelines," for U.S. Nuclear Regulatory Commission (NRC) staff review.

NEI 06-02 was originally published in 2006 as an industry guidance document for assembling and standardizing LARs for submission to the NRC. A September 29, 2006, letter from the NRC to NEI recommended expanding the scope of NEI 06-02 to include additional items that are important to the LAR process. Since 2007, NEI has been working with the Licensing Action Task Force (LATF) on a revision to NEI 06-02 to incorporate these items.

NEI 06-02, Revision 1, builds on previous efforts by NEI and the LATF, and addresses a number of additional topics associated with the LAR process, including:

- use of the LAR process
- use of precedent
- LAR standard formatting
- LAR submittal and NRC review
- NRC approval and implementation

The NRC staff has reviewed the revision to NEI 06-02 and the staff comments are contained in the enclosure to this letter. Should you have any questions regarding these comments, please contact Robert Nelson at (301) 415-1453, or Marlayna Vaaler at (301) 415-3178.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph G. Giitter".

Joseph G. Giitter, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Enclosure: As stated

U.S. NUCLEAR REGULATORY COMMISSION (NRC) COMMENTS ON
NUCLEAR ENERGY INSTITUTE (NEI) TECHNICAL REPORT 06-02, REVISION 1,
“LICENSE AMENDMENT REQUEST GUIDELINES”

The following are comments made by members of the staff of the NRC's Office of Nuclear Reactor Regulation (NRR) regarding Revision 1 of NEI 06-02. The comments are organized by section and should be considered only as suggestions, which may be incorporated at the preference of the NEI 06-02 writing group.

1. Section 2.2, Page 5 states: “If differences are extensive, the citation of precedent in the application should be reconsidered.” The current language doesn't provide sufficient guidance to support a standard approach for citing a precedent. It would be helpful if NEI could expand the discussion to include clarifying language on what NEI 06-02 users should consider to be extensive differences from precedent applications.
2. Section 2.3, Page 6 contains a sentence that states: “Differences between the precedent licensing action and the proposed amendment should be identified.” NEI should consider adding: “... both to describe differences between the precedent and the proposed actions, and to point out any limitations of the precedent action's relevance.”
3. Section 3.0, Page 7 indicates the elements of the standard license amendment request (LAR) format. The last bullet indicates that submission of retyped technical specifications (TS) and/or operating license (OL) pages is optional. However, especially for complex TS change proposals, the retyped (clean) TS pages provide the technical staff with a much clearer understanding of the licensee's proposed changes. Often, the marked up pages can become confusing as the NRC staff attempts to follow the bubbles, arrows, strikeouts, and inserts while fully understanding the changes. In addition, the staff may request retyped pages at any time if it needs this information to support its reasonable assurance finding. It is suggested that the use of optional be replaced with a description for submitting retyped TS/OL pages consistent with the wording in footnote 6 of NEI 06-02. This suggestion should also be reflected in other areas of NEI 06-02, as applicable.
4. Section 3.0, Page 7 indicates the elements of the standard LAR format. The fifth bullet indicates that submission of TS Bases page markups is optional or for information only. It is suggested that the wording be changed to reflect that inclusion of TS Bases pages is strongly encouraged. The TS Bases pages provide an understanding of how the licensee interprets and plans to implement its TSs. Providing the TS Bases pages contributes to the goal of increasing the quality of LARs and may reduce confusion and the need for requests for additional information (RAIs). This suggestion should also be reflected in other areas of NEI 06-02, as applicable.

Enclosure

5. Section 3.0, Page 7 indicates the elements of the standard LAR format. The third bullet indicates that including a list of regulatory commitments is optional. It is suggested that an LAR should state "none" if the application does not contain regulatory commitments, and that providing such a list is required if the action does indeed create the need for regulatory commitments.
6. Section 4.1, Page 8 states the following in regard to pre-submittal meetings: "Licensees should be clear in their goals and expectations from the meeting and take care to not appear to be asking the NRC to consult on an appropriate course of action." It is suggested that the sentence be reworded to: "Licensees should be clear in their goals and expectations from the meeting. Although pre-submittal meetings are useful for determining reasonable and acceptable approaches to a planned license amendment request, licensees should take care to not ask questions that seek a determination from the NRC on an appropriate course of action."
7. Section 4.1, Page 8 states: "Materials to be used at the pre-submittal meeting should be provided to the NRC early enough for the information to be placed in the NRC ADAMS document system. This allows NRC Staff participating by teleconference to view the materials." It is suggested that the paragraph be reworded to: "The licensee should work with the NRC project manager (PM) to determine the timing for submission of materials to be used at the presubmittal meeting to the NRC in order to allow for the information to be placed in the NRC's Agencywide Document Access and Managements System (ADAMS). This allows the NRC staff and members of the public participating by teleconference to view the materials. Ideally, handout materials should be provided prior to the preparation of the meeting announcement so that the NRC PM and technical staff have adequate time to prepare for a productive meeting."
8. It is recommended that the following sentence be added to the last paragraph on Page 8 in Section 4.1: "Generally, no regulatory decisions are made at presubmittal meetings."
9. It is recommended that the following sentence be added to the end of Section 4.2 on Page 9 regarding the electronic submittal of LARs: "Electronic submission normally allows the submittal to be available in ADAMS much more quickly than a normal submission through the regular mail."
10. Section 4.3, Page 9 discusses how licensees should consider LARs appropriate for submittal to the NRC. In one of the observations, NEI cautions licensees to not make submittals that are dependent on prior or parallel approval of other submittals that are under concurrent NRC staff review. It is recommended that language be added to direct licensees to also use caution when submitting single applications that include several linked review items that could be seen as dependent upon each other. There is an impact on the review time for LARs that may include linked items in one submittal similar to that for one submittal that could be linked to other separate submittals.
11. Section 4.4.1, Page 11 states that "frequent and early communication between the NRC PM, the NRC technical reviewers and their management, and the licensee can minimize the need for RAIs." Communications between licensees and NRC technical reviewers' management regarding RAIs should not be expected to occur frequently. It is expected

that these communications are handled and issues resolved in most cases at the PM and technical reviewer level unless elevation to managements levels is regarded as necessary by both parties. For consistency with LIC-101, it is suggested that the sentence be reworded to: "Frequent and early communication between the PM, technical staff, and the licensee can minimize the need for RAIs."

12. Section 4.4.1, Page 11 states that "RAI communications can either be formal or informal." The word RAI should be deleted from this sentence. The section includes a discussion of RAI communications, including formal and informal communications. The bullet describing informal communications appears to confuse the concept and intent of informal communications with draft RAIs. While NRR Office Instruction COM-203, "Informal Interfacing and Exchange of Information with Licensees and Applicants," describes the types of informal communications expected to occur between the NRC staff and licensees, it refers to LIC-101 for guidance on draft RAIs. LIC-101 does not have a provision for the NRC staff to issue informal RAIs which provide the licensee the option to respond as suggested in the NEI 06-02 bullet. The information presented in these bullets should be revised to be consistent with the NRC staff guidance for formal and informal communications as well as draft RAIs.
13. Section 4.4.2, Page 12 includes the steps in the RAI process. However, several of the steps are not consistent with the NRC staff guidance contained in LIC-101. NEI should consider revising steps 3 and 4 to the following:
 3. The cognizant NRC technical Branch Chief reviews the draft RAIs for technical content consistent with NRR Office Instruction LIC-101.
 4. The cognizant NRC PM and the Branch Chief in the Division of Operating Reactor Licensing review the draft RAIs for regulatory information consistent with NRR Office Instruction LIC-101.
14. Section 4.4.2, Page 12-13. NEI should consider providing guidance to licensees regarding general expectations for establishing acceptable timeframes for responses to RAIs, and should highlight the licensee's responsibility to follow the requirements in Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.108, "Denial of application for failure to supply information," regarding timely responses to RAIs.
15. Section 4.4.2 should include a step wherein the final RAIs are formally transmitted to the licensee by the NRC staff (possibly as Step 10). This step is currently missing.
16. Section 4.5, Page 14-15: Similar to the statements presented regarding NEI's position on the appropriateness of generic RAIs, NEI should provide guidance to licensees that plant-specific LARs should not be submitted when they involve known issues with an agency position affecting multiple plants. The guidance should recommend that licensees use the NEI Licensing Action Task Force and the Technical Specification Task Force (TSTF) groups to address these concerns when an immediate plant-specific safety or compliance concern is not present.

17. Page A-2, footnote 3: Licensees should be informed to consider that the NRC's goal for completion of the review of most license amendments is 12 months or less, and for Consolidated Line Item Improvement Process (CLIIP) actions is 6 months or less. There is no need to request a completion date if that schedule is acceptable to the licensee.
18. Page A-2: Licensees should be advised to be mindful of sensitive unclassified security information (SUNSI). For example, plant layout drawings that wouldn't be released by the NRC under SUNSI are often shared with the public, state, and other interested stakeholders in amendment applications. Licensees should consider very strongly the inclusion of information that would be withheld by the NRC under SECY 04-0191, "Withholding Sensitive Unclassified Information Concerning Nuclear Power Reactors From Public Disclosure." They should further consider sharing plant layout drawings only with the NRC under 10 CFR 2.390, "Public inspections, exemptions, requests for withholding," and not share that information publicly. This may involve an enclosure to an amendment that is withheld from public stakeholders under 10 CFR 2.390. Words should be included that appropriate representatives of the state or other government bodies may have access to the information at the plant site, or through an arrangement with the licensee whereby the information is kept confidential.
19. Page A-4, footnote 6 is recommended to be reworded to read: "Retyped or camera ready pages must be included with the license amendment request. However, they may be deferred until the end of the process to accommodate revisions derived from responses to NRC Requests for Additional Information or other sources." NEI 06-02 should also consider providing guidance to licensees to indicate that when significant markups of the TS or OL are involved, the retyped pages should be submitted with the original request package in order to assist the NRC staff's initial understanding of the impact of the proposed change(s). The guidance should also note that retyped TS (including the TS Bases) or OL pages may be requested at any time during the review.
20. Page A-9: Consider adding the following sentence to the end of the paragraph providing guidance on actions eligible for categorical exclusion: "However, for the minority of instances where a proposed amendment does not qualify for a categorical exclusion (e.g., if special circumstances exist, or if the action does not meet applicable criteria in 10 CFR 51.22(c)), the NRC staff will prepare an environmental assessment and may require the licensee to submit information in accordance with 10 CFR 51.41."
21. Page D-1: The third paragraph states that "when the NRC approves a TSTF Traveler, a model application, draft safety evaluation (SE), and no significant hazards consideration determination (NSHCD) are published in the Federal Register (first as a Notice for Comment and then as a Notice of Availability)." Note that the NRC publishes these documents (the TSTF Traveler, model application, model SE, and disposition of industry comments) in the *Federal Register* by reference only. The NRC makes the subject documents available in the NRC's ADAMS. It should also be noted that the *Federal Register*, as well as ADAMS, specify a model SE (which includes the NSHCD) and not a draft SE as stated in the paragraph.
22. Page D-1: The third paragraph also states that a CLIIP-related amendment can be issued within 6 months. It should be noted that the 6 month review period is an NRC

goal and not a requirement for processing a CLIP-related application. It should also be noted that not all TSTF Travelers published in the *Federal Register* are identified as a CLIP-related NUREG change.

23. Appendix E, Section E.2, Page E-1. Delete "or rule change" from 1.a. A proposed change cannot be made related to a requested rule change.
24. Appendix E, Section E.3, Page E-4. Add "not" between the words "is acceptable" in 4.b. This is in accordance with the current agency position on this issue.

