

August 5, 2010

MEMORANDUM TO: Timothy J. Kobetz, Chief
Reactor Inspection Branch
Division of Inspection and Regional Support
Office of Nuclear Reactor Regulation

FROM: Aron Lewin, Reactor Operations Engineer */RA/*
Reactor Inspection Branch
Division of Inspection and Regional Support
Office of Nuclear Reactor Regulation

SUBJECT: SUMMARY OF TELECONFERENCE WITH NEI WITH REGARDS
TO NRC EFFORT TO REVISE NUREG-1022, REVISION 2.

The Nuclear Regulatory Commission (NRC) currently has plans to draft a Revision 3 to NUREG-1022, "Event Reporting Guidelines 10 CFR 50.72 and 50.73." A public meeting was held to solicit public comments on June 8, 2010 and June 9, 2010. The meeting notice was issued on May 14, 2010, (Agencywide Documents Access and Management System (ADAMS) Accession No. ML101241083) and the meeting summary was published on June 29, 2010 (ADAMS Accession No. ML101720219). The Nuclear Energy Institute (NEI) provided additional information via E-mail on July 2, 2010 (ADAMS Accession No. ML101930338). A teleconference was held with NEI on July 19, 2010 in order to clarify noted differences between information found in the June 29, 2010 public meeting summary and information found in the July 2, 2010 E-Mail.

Enclosure (1) lists the attendees on the teleconference. Enclosure (2) contains the teleconference summary which also includes a discussion on the above noted differences.

Enclosures:
As Stated

CONTACT: Aron Lewin, NRR/DIRS
301-415-2259

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DATE	08/05/2010	08/05/2010

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MEETING ATTENDEE LIST

July 19, 2010 Teleconference with the Nuclear Energy Institute (NEI)

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JULY 19, 2010 TELECONFERENCE SUMMARY ON NOTED DISCREPANCIES
BETWEEN JUNE 8th & 9th MEETING MINUTES AND JULY 2nd E-MAILED FILES

The NRC received a general comment from NEI regarding the June 8th and 9th 2010 public meeting minutes (ML101720219): "In several places the NRC indicated that industry did not propose a change and that NRC would clarify. To clarify industry's point on those items: we believe they are clear as is and that any 'clarification' easily changes the purpose of those points. Therefore, we /are open to reviewing any changes to determine if they in fact did change the intent/purpose/interpretation/etc and any impact on the industry but without reviewing any NRC proposed changes we believe that the statements are clear as is and any attempt at clarification would make those statements inconsistent with the Statements of Consideration and/or the Rule."

1. LCO 3.0.3 aspects with regards to reporting "Operations or Conditions Prohibited by Technical Specifications"

The public meeting minutes (Item 8 in ML101720219) reflect that NEI/Industry considered the submitted NUREG mark-up changes (ML101740067) as administrative in nature and did not reflect an intent to change current reporting guidance (i.e. a shutdown that must be initiated as a result of LCO 3.0.3 would still be considered reportable as an "Operation or Condition Prohibited by Technical Specifications"). Other reporting criteria may apply.

Attachments in the E-mail on July 2nd (ML101930338) indicate that LCO 3.0.3 entry would only be considered an "Operation or Condition Prohibited by Technical Specifications" if the shutdown was not performed within the completion time.

July 19, 2010 Summary: NEI/Industry stated that an "Operation or Condition Prohibited by Technical Specifications" would exist if any of the shutdown times listed in LCO 3.0.3 were exceeded, even if the condition was not discovered until after the allowable time had elapsed and the condition was rectified immediately upon discovery. NEI/Industry stated that an "Operation or Condition Prohibited by Technical Specifications" would not exist if LCO 3.0.3 was entered and the unit was shutdown within the stated shutdown times (i.e. Mode 3, 4, 5 for WOG STS). Should action not be initiated within 1 hour (i.e. 1 hour for STS plants), NEI/Industry did not consider that an "Operation or Condition Prohibited by Technical Specifications" would exist as long as the stated shutdown times are met.

With regards to LCO Completion Times, NEI Industry stated that the term "Operation or Condition Prohibited by Technical Specifications" does not necessarily mean a Technical Specification (TS) non-compliance. With regards to other TS aspects (i.e. Safety Limits which have associated time requirements, entering a Mode with inoperable equipment not in accordance with TS rules and usage, Design Features) NEI/Industry stated that there is unclear guidance and inconsistency in application among stakeholders as to whether or not a TS non-compliance results in an "Operation or Condition Prohibited by Technical Specifications." The NRC stated that should NEI/Industry develop a position on TS compliance with regards to reportability as an "Operation or Condition

Prohibited by Technical Specifications,” it could be taken into consideration and dispositioned prior to publishing the revised NUREG draft if time permitted. The NRC also stated that should the NRC attempt to provide clarification on how to disposition TS compliance issues with regards to “Operations or Conditions Prohibited by Technical Specifications,” NEI/Industry/public would have the option to comment on the draft NUREG-1022, Revision 3 when it is published for comment.

2. Expected inability to restore equipment prior to exceeding the LCO action time with regards to reporting “Plant Shutdowns Required by Technical Specifications”

The public meeting minutes (Item 2 in ML101720219) reflect that NEI/Industry considered Example 3 in section 3.2.1 of NUREG-1022, Revision 2, to be in error (i.e. if the plant must shut down to fix the component, then the event would be reportable).

Attachments in the E-mail on July 2nd (ML101930338) indicate that deleting the Discussion guidance while retaining the Example is just as acceptable as deleting the Example.

July 19, 2010 Summary: Another option discussed was revising the Example to reflect the Discussion guidance. NEI/Industry considered this approach a possibility and NEI/Industry/public would have the option to comment on the draft NUREG-1022, Revision 3 when it is published for comment.

3. Completion Time considerations with regards to reporting “Operations or Conditions Prohibited by Technical Specifications”

The public meeting minutes (Item 3 in ML101720219) reflect that NEI/Industry considered Example 1 in section 3.2.2 of NUREG-1022, Revision 2, to be proper guidance. In addition, for a given Condition, if shutdown Required Actions and Completion Times are listed, NEI/Industry did not believe that LCO 3.0.3 times should be considered. When LCO 3.0.3 entry is explicitly called out as a Required Action for a given Condition, NEI/Industry believed that that the times associated with LCO 3.0.3 should be considered. For cases in which the Condition is not listed in the Actions, NEI/Industry did not have a position as to whether or not to consider times associated with LCO 3.0.3.

Attachments in the E-mail on July 2nd (ML101930338) indicate “An LER is required if a condition existed for a time longer than permitted by the technical specifications [i.e., greater than the allowed outage time (or completion time in ISTS), including LCO 3.0.3 completion times which allow for additional time] even if the condition was not discovered until after the allowable time had elapsed and the condition was rectified immediately upon discovery.” Given the three scenarios discussed at the meeting, it is unclear, in the E-mailed files, under what scenarios LCO 3.0.3 completion times are to be considered.

July 19, 2010 Summary: For a given Condition, if shutdown Required Actions and Completion Times are listed (i.e. be in hot shutdown in X hours and cold shutdown in Y hours, etc), NEI/Industry did not believe that additional LCO 3.0.3 times should be considered. If LCO 3.0.3 entry is explicitly called out as a

Required Action for a given Condition, NEI/Industry believed that that the times associated with LCO 3.0.3 should be considered. For cases in which the Condition is not listed in the Actions, NEI/Industry believed that that the times associated with LCO 3.0.3 should be considered.

4. Clarification of Surveillance Frequency extensions with regards to reporting “Operations or Conditions Prohibited by Technical Specifications”

The public meeting minutes (Item 4 in ML101720219) reflect that NEI/Industry did not have objections to the NRC providing clarification to the guidance on Surveillance Frequency extensions found in section 3.2.2 of NUREG-1022, Revision 2.

Attachments in the E-mail on July 2nd (ML101930338) indicate industry believes that the existing guidance provided is clear.

July 19, 2010 Summary: NEI/Industry believes that the existing guidance provided is clear but has no objection to the NRC providing clarification if the intent is not changed. NEI/Industry/public would have the option to comment on the draft NUREG-1022, Revision 3 when it is published for comment.

5. Application of LCO 3.0.8 with regards to reporting “Operations or Conditions Prohibited by Technical Specifications”

The public meeting minutes (Items 10 and 31 in ML101720219) reflect that NEI/Industry considered Example 4 in section 3.2.2 and Example 3 in section 3.2.8, of NUREG-1022, Revision 2, to be adequate.

Attachments in the E-mail on July 2nd (ML101930338) state “The addition of LCO 3.0.8 would clearly be an addition to the NUREG that was not previously adjudicated.” Given that LCO 3.0.8 is approved for plant-specific adoption, the basis for the statement is unclear.

July 19, 2010 Summary: NEI/Industry had concerns that the NRC may attempt to impose LCO 3.0.8 on licensees that have not adopted it. The NRC discussed that when the NUREG is revised, it may only provide additional guidance for those licensees that have adopted LCO 3.0.8 (i.e. it is not the intention of the NRC to impose LCO 3.0.8 via NUREG guidance on licensees that have not adopted it). NEI/Industry/public would have the option to comment on the draft NUREG-1022, Revision 3 when it is published for comment.

6. Distinction between ECCS actuation and discharge with regards to reporting “System Actuations”

The public meeting minutes (Item 20 in ML101720219) reflect that NEI/Industry considers 50.72(b)(2)(iv)(A) to involve ECCS injection while 50.72(b)(3)(iv)(A) involves ECCS actuation. NEI/Industry further discussed that the difference between the two is the time needed to inject after actuation.

Attachments in the E-mail on July 2nd (ML101930338) state “Therefore, we do not believe that this section requires any clarification and that any proposed

changes for ECCS would be (as NRC states above) a change to the NUREG not previously considered and would require rulemaking to add this change to the NUREG.” Given that statements of consideration exist which distinguish between the two requirements, the basis for the statement is unclear.

July 19, 2010 Summary: NEI/Industry stated that if the NRC was to consider ECCS actuation and ECCS discharge the same with regards to reporting, it would require a rule change. If the NRC considered ECCS actuation and ECCS discharge to have different reporting requirements, NEI/Industry would not necessarily have issues with providing additional guidance in the NUREG that would clarify the differences. NEI/Industry/public would have the option to comment on the draft NUREG-1022, Revision 3 when it is published for comment.

7. Clarification of valid signal definition with regards to reporting “System Actuations”

The public meeting minutes (Item 21 in ML101720219) reflect that NEI/Industry did not have objections to NRC providing clarification.

Attachments in the E-mail on July 2nd (ML101930338) state “In fact, we believe that the NUREG does properly reflect the intent of the rule and any change to this section would be an addition to the NUREG that was not previously adjudicated.” Given that the use of the term “system actuation” vice “safety function” is in the statements of consideration regarding valid signals, the basis for the statement is unclear.

July 19, 2010 Summary: NEI/Industry would not necessarily have issues with clarifications as long as it was consistent with the rule and the statement of considerations. NEI/Industry/public would have the option to comment on the draft NUREG-1022, Revision 3 when it is published for comment.

8. Errors in approved procedures with regards to reporting “Events or Conditions that Could Have Prevented Fulfillment of a Safety Function”

The public meeting minutes (Item 25 in ML101720219) reflect that NEI/Industry considered the current guidance appropriate (i.e. an approved procedure has the potential to result in the loss of a system’s safety function, regardless of the TS operability determination).

Attachments in the E-mail on July 2nd (ML101930338) state “If an accident were to occur and an approved and ready for use procedure when implemented would have prevented fulfillment of the safety function this would be reportable.” It is unclear if “were” refers only to on-going accident conditions.

July 19, 2010 Summary: NEI/Industry stated that the term “were” does not refer only to accidents that are on-going. It includes scenarios in which an approved and ready for use procedure when implemented would have prevented fulfillment of the safety function, even if an accident is not on-going at the time.

9. Clarification of timing requirements with regards to reporting a “Loss of Emergency Preparedness Capabilities”

The public meeting minutes (Item 35 in ML101720219) reflect that NEI/Industry did not have objections to the NRC providing clarification that the event must be reported within 8 hours (i.e. as soon as practical and in all cases within eight hours).

Attachments in the E-mail on July 2nd (ML101930338) recommended no change to the section.

July 19, 2010 Summary: NEI/Industry believes that the existing guidance provided is clear but has no objection to the NRC providing clarification if the intent is not changed. NEI/Industry/public would have the option to comment on the draft NUREG-1022, Revision 3 when it is published for comment.

10. Reporting of historical events under 10 CFR 50.72

The public meeting minutes (Item 45 in ML101720219) reflect that NEI/Industry considered that the three years listed in 50.72(a)(1)(ii) is only applicable to those specific 50.72 reporting requirements that use a past tense. For 50.72 reporting requirements that use a present tense, a report is required only if the event is on-going.

The “NEI comments on the NRC items” attachment in the E-mail on July 2nd (ML101930338) states “Industry has reviewed this section and notes that this applies to principle safety barriers and an unanalyzed condition.” However, the NUREG mark-up attachment in that same E-mail states “The present tense is used in this section of 50.72(b)(3) {“*Unanalyzed and Degraded Conditions*”} because the event or condition would be reported as an ENS notification if it was ongoing at the time of discovery.”

July 19, 2010 Summary: NEI/Industry stated that for 50.72 reporting requirements that use a present tense, a 50.72 report is required only if the event is on-going. NEI/Industry also stated that this includes degraded principle safety barriers and unanalyzed conditions (i.e. degraded and unanalyzed conditions are only reportable under 50.72 if the event is on-going at the time of discovery).

NEI also had the following comment: “The sentence *{in the public meeting minutes}* that states ‘For 50.72 reporting requirements that use a present tense, a report is required only if the event is on-going’ is the one we believe to be misleading. The discussion on this item in the June meetings was that for events that were not ongoing, there was no need of a 50.72 notification. It is quite likely that in those cases the discovery of a past condition (if it had existed within the last 3 years) would result in a written 50.73 report.”