NRC Staff Disposition of Comments to November 21, 2007, *Federal Register* Notice, "Notice of Opportunity to Comment on Model Safety Evaluation on Technical Specification Improvement for B&W Reactor Plants To Risk-Inform Requirements Regarding Selected Required Action End-States Using the Consolidated Line Item Improvement Process"

The NRC staff evaluated the public comments received on TSTF-431, Revision 2, the model SE, model NSHC, and model LAR published in the *Federal Register* on November 21, 2007, (72 FR 65615-65629). Comments were received from the Technical Specifications Task Force (TSTF) (ADAMS Accession No. ML073600706) and from the Nuclear Energy Institute (NEI) (ADAMS Accession No. ML073600686). TSTF-431, Revision 2, was not noticed for availability because TSTF-431, Revision 3, was submitted for approval prior to approving Revision 2. The only difference between Revision 2 and Revision 3 is the addition of a Note to clarify explicitly that the use of LCO 3.0.4a is prohibited when entering the preferred end state. As such the comments received on Revision 2 are equally applicable to Revision 3. The comments and the NRC staff disposition of each comment are as follows.

Disposition of TSTF Comments

1. TSTF-431, Revision 2, contained changes to several specifications, including Specification 3.8.7, "Inverters - Operating." Specification 3.8.7 is listed as an affected specification in the Summary and in the Introduction of the Proposed Model Plant Specific Safety Evaluation. However, unlike the other affected specifications, Section 3.2, "Assessment of TS Changes," of the Proposed Model Plant Specific Safety Evaluation does not contain an evaluation of Specification 3.8.7. This appears to be an oversight that should be corrected in the Notice of Availability.

   Disposition: The NRC staff accepted the comment, and addressed inclusion of LCO 3.8.7 in TSTF-431, Revision 3, Notice of Availability.

2. In two locations in the Proposed Model Plant Specific Safety Evaluation, Section 2.0, refers to 10 CFR 50.36(c). On August 28, 2007, the NRC revised 10 CFR 50.36 and the discussion of Technical Specifications was moved to 10 CFR 50.36(d).

   Disposition: The *Code of Federal Regulations* revised as of January 1, 2010, 10 CFR 50.36(c) reflects requirements for the Technical Specifications, hence no change is necessary.

3. In Section 3.2, "Risk Assessment," of the Proposed Model Plant Specific Safety Evaluation, under "Configuration Risk Management (Tier 3)," the following statement is made: "In addition, to the extent that the plant PRA is utilized in the CRMP, the plant PRA quality will be assessed in accordance with NRC Regulatory Issue Summary 2007-06, 'Regulatory Guide 1.200 Implementation'." This sentence should be deleted. As stated in the preceding sentences, the Configuration Risk Management Program (CRMP) is a licensee program in place to comply with 10 CFR 50.65(a)(4). Regulatory Issue Summary (RIS) 2007-06 discusses how the NRC will use Regulatory Guide 1.200 to assess the PRA adequacy of licensee submittals to the NRC. RIS 2007-06 makes no mention of licensee-controlled programs that are not reviewed by the NRC, such as the CRMP. Therefore, the

sentence is inaccurate in that the NRC will not assess the licensee-controlled CRMP under the proposed CLIIP.

Disposition: The NRC staff accepted the comment and deleted reference to Regulatory Guide 1.200.

4. The Model Application states, "I declare under penalty of perjury under the laws of the United States of America that I am authorized by [LICENSEE] to make this request and that the foregoing is true and correct." This statement is not consistent with-the recommended statement given in RIS 2001-18, "Requirements for Oath or Affirmation." RIS 2001-18 recommends the statement, "I declare [or certify, verify, state] under penalty of perjury that the foregoing is true and correct." Note that RIS 2001-18 states that this statement must be used verbatim. We recommend that the Model Application be revised to be consistent with RIS 2001-18.

   Disposition: The NRC staff concurred and incorporated the comment.

Note: There is no comment marked as #5.

6. In the Notice under, "Applicability," the last two sentences state, "Significant variations from the approach, or inclusion of additional changes to the license, will result in NRC staff rejection of the submittal. Instead, licensees desiring significant variations and/or additional changes should submit a LAR that does not claim to adopt TSTF-431, Revision 2." Should a licensee submit an application that requests adoption of TSTF-431 but includes significant variations or additional changes (for example, as part of a license amendment request to convert to the Standard Technical Specifications), it would facilitate the NRC's review for the licensee to acknowledge that the change is based on TSTF-431 so that the NRC may use the model Safety Evaluation to the extent possible. We recommend revising the sentence to state, "Instead, licensees desiring significant variations and/or additional changes should submit a LAR that does not request to adopt TSTF-431 under the Consolidated Line Item Improvement Process."

   Disposition: The NRC staff considered the comment, and revised the 'applicability' section with a similar statement.

7. To be consistent with 10 CFR 50.91(a), the title of Criterion 2 in the Proposed No Significant Hazards Consideration Determination should be revised to add the word "Accident" before "Previously Evaluated." Specifically, it should state, "The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from any Accident Previously Evaluated." The word "an" should be changed to "any" in the last sentence of the Criterion 2 evaluation.

   Disposition: The NRC staff concurred and incorporated the comment.

8. Enclosure 3, "Revised Technical Specification Pages," should be shown as optional. Many licensees do not provide retyped technical specification pages in their license amendment requests.

   Disposition: When an applicant desires to amend its TS, the combination of § 50.36 and 50.90 require submission of the new, clean, unmarked TS and bases. An applicant could not reasonably decline to submit proposed TS and bases under the claim that the

proposed pages were not “applicable” to its request. Thus, an application is likely incomplete if it fails to contain final clean TS and bases pages.

Regarding marked-up pages, applicants generally submit marked-up TS and bases pages. There is, however, no direct requirement for submission of the mark-ups. Should the Staff need the mark-ups for their amendment review, § 50.90’s requirement that an LAR “fully describe[s] the changes desired” could be used to request a mark-up version. No changes were made as a result of this comment.

Disposition of NEI comments

1. Section 2.0: Two references to 10 CFR 50.36(c) now should be 10 CFR 50.36(d) based on new NRC rule change dated August 28, 2007.

   Disposition: The *Code of Federal Regulations* revised as of January 1, 2010, 10 CFR 50.36(c) reflects requirements for the Technical Specifications, hence no change is necessary.

2. Section 3.1 Risk Assessment: under Tier 3 bullet for Configuration Risk Management: Paragraph reads, "In addition, to the extent that the plant PRA is utilized in the CRMP, the plant PRA quality will be assessed in accordance with NRC Regulatory Issue Summary 2007- 06, "Regulatory Guide 1.200 Implementation," (Reference 11)." Nowhere in the implementation guidance document (TSTF-IG-07-01) or in BAW-2441A Revision 2, does it address PRA technical adequacy or RG 1.200. RIS 2007-06 was issued to inform addressees of how the NRC will implement its technical adequacy review of plant specific probabilistic risk assessments (PRAs) used to support risk-informed licensing actions after the issuance of Regulatory Guide (RG) 1.200. It is not clear what this statement means since 10 CFR 50.65(a)(4) can use a qualitative, quantitative, or blended approach. This could be incorrectly construed to mean that the on-line PRA tool must meet RG 1.200 before adopting this CLIIP.

   Disposition: The NRC staff accepted the comment and deleted reference to Regulatory Guide 1.200.

3. The detailed write-up section on TS 3.8.7 Inverters-Operating (page 65615 of the Model Safety Evaluation does list Inverters-Operable as one of the affected TS) is missing from the Model Safety Evaluation. It looks as if it should be Section 3.2.18 (and 3.2.18 be relabeled as 3.2.19).

   Disposition: The NRC staff accepted the comment, and addressed inclusion of LCO 3.8.7 in TSTF-431, Revision 3, Notice of Availability.