



NUCLEAR ENERGY INSTITUTE

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September 10, 2012

Mr. Eric J. Benner  
Chief, Rules, Inspections and Operations Branch  
Division of Spent Fuel Storage and Transportation  
Office of Nuclear Materials Safety and Safeguards  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

**Subject:** Submittal of NEI 12-04, *Guidelines for 10 CFR 72.48 Implementation*, Revision 0, dated August 2012

**Project Code: 689**

Dear Mr. Benner:

The Nuclear Energy Institute (NEI),<sup>1</sup> on behalf of the nuclear energy industry, is pleased to submit to the U.S. Nuclear Regulatory Commission (NRC) NEI 12-04, *Guidelines for 10 CFR 72.48 Implementation*, Revision 0, dated August 2012. We request that the NRC review NEI 12-04 for possible endorsement through a revision to Regulatory Guide 3.72.

NEI 12-04 provides guidance for implementation of a change control process in accordance with 10 CFR 72.48.<sup>2</sup> NEI 12-04 is built upon the guidance contained in NEI 96-07, Appendix B, *Guidelines for 10 CFR 72.48 Implementation*, dated March 2001, which is currently endorsed by NRC in Regulatory Guide 3.72. Furthermore, in areas where 10 CFR 72.48 is identical to 10 CFR 50.59, the guidance in NEI 12-04 has been developed to be consistent with NEI 96-07, *Guidelines to Implement 10 CFR 50.59*. Consistent interpretation of identical regulations is necessary to ensure regulatory stability and predictability.

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<sup>1</sup> NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, nuclear material licensees, and other organizations and individuals involved in the nuclear energy industry.

<sup>2</sup> The objectives of 10 CFR 72.48 are to ensure that licensees and holders of Certificates of Compliance (CoC) (1) evaluate proposed changes to their facilities or cask design for their effects on the licensing basis of the ISFSI or cask design, as described in the FSAR, and (2) obtain prior NRC approval for changes that meet specified criteria as having a potential impact upon the basis for issuance of the license or CoC. NEI 12-04 provides guidance on complying with the requirements of 10 CFR 72.48.

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While the current guidance in NEI 96-07 Appendix B continues to be acceptable, we developed NEI 12-04 in order to include improvements, clarifications and simplifications that will make the guidance more directly useful to 10 CFR Part 72 CoC holders and licensees. Improvements were made in the following areas: 1) simplify the organization of the guidance; 2) clarify how the guidance applies to site-specific licensees, CoC holders and general licensees; 3) clarify specific topics to ensure consistent application; and 4) improve examples to be more relevant to ISFSIs and cask designs. The first attachment to this letter describes changes to guidance that have been incorporated into NEI 12-04 in response to recommended improvements to NEI 96-07, Appendix B.

The second attachment to this letter is NEI 12-04, which includes two appendices that provide examples for applying the guidance. Appendix A of NEI 12-04 includes examples of applying a specific aspect of guidance to a specific situation, which were previously included in NEI 96-07, Appendix B. Appendix B of NEI 12-04 includes several examples of full reviews implementing the NEI 12-04 guidance for realistic activities. Appendix B examples are identical to those sent by NEI to the NRC in a letter dated March 22, 2012<sup>3</sup> with the exception of a substantive change to Example 2 due to identification of a more appropriate application of the guidance.

We recommend that the NRC endorse NEI 12-04 through a revision to Regulatory Guide 3.72. Upon endorsement by the NRC, NEI 12-04 would replace NEI 96-07, Appendix B. We would then remove Appendix B from NEI 96-07; however, no changes to the guidance in NEI 96-07 or its other appendices would be necessary. Until NEI 12-04 is endorsed by the NRC, NEI 96-07 Appendix B would remain an acceptable approach to meet 10 CFR 72.48. We would be pleased to meet with NRC staff to discuss NEI 12-04. Please let us know at your earliest convenience if such a meeting will be scheduled. If you have any questions, please contact me.

Sincerely,



Marcus Nichol

#### Attachments

c: Mr. Mark D. Lombard, NMSS/DSFST, NRC  
Mr. Douglas W. Weaver, NMSS/DSFST, NRC  
Mr. Raynard Wharton, NMSS/DSFST/RIOB, NRC  
Mr. Steve R. Ruffin, NMSS/DSFST/LB, NRC  
NRC Document Control Desk

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<sup>3</sup> NEI Letter from M. Nichol to C. Araguas, NRC, "Application of Guidance to Implement 10 CFR 72.48 (NEI 96-07 Appendix B) – Examples of Realistic Activities Reviewed through the 72.48 Process," March 22, 2012