



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

December 5, 2012

Mr. Joseph H. Plona  
Senior Vice President and  
Chief Nuclear Officer  
Detroit Edison Company  
Fermi, Unit 2  
6400 North Dixie Highway  
Newport, MI 48166

SUBJECT: FERMI 2 - AUDIT OF THE LICENSEE'S MANAGEMENT OF REGULATORY  
COMMITMENTS (TAC NO. ME8996)

Dear Mr. Plona:

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.

On May 27, 2003, the Office of Nuclear Reactor Regulation Office (NRR) Instruction LIC-105, "Managing Regulatory Commitments Made by Licensees to the NRC," was published. LIC-105, which is publicly available electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC website (ADAMS Accession No. ML022750041) provides the NRC staff and its stakeholders with a common reference for handling regulatory commitments made by licensees for commercial nuclear reactors to the NRC staff.

In accordance with LIC-105, the NRR staff has been instructed to perform an audit of licensees' commitment management programs (CMP) once every three years to determine whether the licensees' programs are consistent with the industry guidance in NEI 99-04, and whether regulatory commitments are being effectively implemented.

An audit of Fermi 2 CMP was performed at the plant site during the period of July 31, 2012 through August 3, 2012. The NRC staff concludes, based on the audit, that (1) Fermi's program for managing Regulatory commitments is generally consistent with NEI 99-04, (2) Fermi 2 had implemented NRC commitments on a timely basis; (3) Fermi 2 has implemented an effective program to manage regulatory commitment changes, and (4) there were no misapplied commitments. Details of the audit are set forth in the enclosed audit report.

J. Plona

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However, as described in the enclosed audit report, there were additional observations made during the audit, which were discussed with the licensee during the exit meeting on August 3, 2012. 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  
REGULATORY COMMITMENTS MADE BY DETROIT EDISON COMPANY TO  
THE NUCLEAR REGULATORY COMMISSION

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.

On May 27, 2003, the Office of Nuclear Reactor Regulation Office (NRR) Instruction LIC-105, "Managing Regulatory Commitments Made by Licensees to the NRC," was published. LIC-105, which is publicly available electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC website (Accession Number ML022750041), provides the NRC staff and its stakeholders with a common reference for handling regulatory commitments made by licensees for commercial nuclear reactors to the NRC staff.

In accordance with LIC-105, NRR staff has been instructed to perform an audit of licensees' commitment management programs (CMPs) once every three years to determine whether the licensees' programs are consistent with the industry guidance in NEI 99-04, and whether regulatory commitments are being effectively implemented.

NEI-99-04 defines a "regulatory commitment" as 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 guidance provided in LIC-105 directs the NRR Project Manager to audit the licensee's CMP 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.). LIC-105 provides a recommendation that a regulatory commitment management audit is to be performed every three years.

Enclosure

The commitments will be controlled in accordance with the licensee's CMP in accordance with NEI 99-04. Any change to the regulatory commitments is subject to licensee management approval and subject to the procedural controls established at the plant for commitment management in accordance with NEI 99-04, which include appropriate notification to the NRC. In accordance with NEI 99-04, the NRC is informed of any regulatory commitment change that has safety or regulatory significance. The attached Table provides the list of commitments reviewed and the auditor's comments in the last column.

## 2.0 AUDIT PROCEDURE AND RESULTS

An audit of the Fermi 2 CMP at the site during the period of July 31, 2012, through August 3, 2012. The Audit reviewed commitments made since the previous audit completed on October 23, 2009. Thus this audit covers the period from October 23, 2009 to July 30, 2012.

The audit consisted of two major parts: (1) Review of Fermi 2's regulatory management program (2) Verification of the licensee's implementation of the commitments made to NRC that have been completed; and (3) verification of the licensee's program for managing changes to commitments made to NRC.

### 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 that had not yet been implemented, the NRC staff assessed whether the licensee managed regulatory commitments in an effective program for future implementation.

#### 2.1.1 Audit Scope

The audit focused on regulatory commitments (as defined above) made in writing to the NRC as a result of past licensing actions (amendments, exemptions, reliefs, etc.) or licensing activities (response to bulletins, generic letters, etc.). Before the audit, the NRC staff searched the Official Agency Record system for licensee correspondence conveying commitments. During the last three years, the licensee did not make any new commitments. However, there were several old commitments which were modified or deleted, and therefore have been included in the audit. Some of the commitments made in Licensee Event Reports or in response to Notices of Violation were included in this audit since those were either changed or deleted even though these commitments are addressed under the NRC's inspection program.

The audit excluded certain types of commitments that are internal to licensee processes. LIC-105 limits the audit of commitments to those made (or those that should have been made) in writing to the NRC as a result of past licensing actions (amendments, reliefs exemptions, etc.) or licensing activities (bulletins, generic letters, etc.). Accordingly, the audit excluded the following types of commitments:

- (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., respond 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 with the subject requirements.

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 that were audited by the NRC staff and the current status of the licensee's commitments.

#### 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 12, 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) 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." RACTS uses an identifier (a 5-digit number), which is used in other documentation.

In general, the NRC staff found that the licensee's commitment tracking programs had captured the regulatory commitments that were identified by the NRC staff before the audit.

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

The NRC staff reviewed the licensee's process for managing commitment changes. The process is documented in procedure MLS10, Revision 12. The analysis and implementation of the proposed changes are documented in Section 4.6 of the procedure and recorded on Forms MLS10002 and MLS10003. Section 4.6 of the procedure specifically refers to NEI 99-04. The forms were compared to similar forms in NEI 99-04, as were MLS10, Revision 12 change process flow charts. The NRC staff verified the consistency of both the forms and flow charts. A note in MLS10, Revision 12, step 4.6.1 discusses enhancements, which are primarily to facilitate processing changes to older commitments to maintain record retention requirements and documenting changes to RACTS.

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 Title 10 of the *Code of Federal Regulations* (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.

### 2.3 Review to Identify Misapplied Commitments

The commitments reviewed for this audit were also evaluated to determine if they had been misapplied. A commitment is considered to be misapplied if the action comprising the commitment was relied on by the NRC staff in making a regulatory decision such as a finding of public health and safety in an NRC safety evaluation (SE) associated with a licensing action. Reliance on an action to support a regulatory decision must be elevated from a regulatory commitment to a legal obligation (e.g., license condition, condition of a relief request, regulatory exemption limitation, or condition). A commitment is also considered to have been misapplied if the commitment involves actions that were safety significant (i.e., commitments used to ensure safety).

There were no misapplied commitments during the review period. Licensee proposed several Cyber Security Plan (CSP) implementation dates as regulatory commitments, but these commitments were not relied upon for the approval of this amendment as explained in 2.3.1.

#### 2.3.1 Review of Safety Evaluation Reports for Licensing Actions since the Last Audit to Determine if They Are Properly Captured as Commitments or Obligations

In addition to the commitments selected for the audit sample, all license amendment SEs, exemptions and relief request SEs that have been issued for Fermi 2 since the last audit were identified. These documents were evaluated to determine if they contained any misapplied commitments as described above.

The Fermi 2 Cyber Security Amendment No. 185 was issued on July 28, 2011. In the SE the staff stated that the licensee proposed several CSP implementation dates as regulatory commitments. However, the NRC did not regard the CSP milestone implementation dates as regulatory commitments that can be changed unilaterally by the licensee, particularly in light of the regulatory requirement of 10 CFR 73.54, which states that implementation of the licensee's cyber security program must be consistent with the approved schedule. In other words, NRC approval is required to make any changes to the implementation schedule.

### 2.3 Internal Audits of Regulatory Commitment Management

MLS10, Revision 12, Step 3.6 contains a statement that "RACTS files are 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 asked the licensee if they had performed an internal audit on Regulatory Commitment Tracking. In response, the licensee provided an internal audit report NANL-12-0045, dated July 6, 2012. This was a quick-hit self assessment on Regulatory Commitment Tracking which was performed by the licensee during the time frame of May 21, 2012 through June 8, 2012. This report recognized the fact that RACTS database is an old system and is not very user friendly. Fermi 2 is planning to upgrade this system in 2015.

## 2.4 Audit Results

The previous audit report issued on December 11, 2009 provided audit observations and suggestions in Section 2.4. In responding to the NRC comments, the licensee performed an internal audit and generated four CARDS (09-28740, 28742, 28788, and 28791) to address some of these issues, thereby improving the process of management of regulatory commitments at Fermi 2. However, there were some additional observations made during this audit, which are listed below:

### 2.4.1 Observations and Suggestions

1. The Fermi 2 commitment data base RACTS does not distinguish between the NRC regulatory commitments and the plant commitments. This is true for the plant procedures also. All commitments are designated as CM which is an abbreviation of a commitment. However, interviews with various plant personnel did demonstrate that the station personnel are well aware of the distinction between the external and internal commitments. The internal commitments are pre-fixed by letters in front of the number, such as DER or CARD. The NRC regulatory commitments are only numerical with no prefix letters.
2. The commitment tracking and documentation process is not easy to follow without getting help from the station personnel, thus making the process less transparent. Therefore it is extremely difficult to establish the historical trail of a commitment, and the reason for its original creation, revision or deletion.
3. There is no set program to review and delete commitments which may be superseded due to various reasons such as change in technology or new NRC rules. It is left to the procedure writer to initiate the change and generate a document change request. Thus some of the old commitments get carried for many years until someone realizes that they are no longer necessary.
4. Due to prolonged delays in revision or deletion of old commitments as stated above, there is a potential that an older commitment maybe followed which may not be applicable due to change in technology or new rules. Although, no evidence of this was found, it is still recommended that the licensee act in a timely manner to manage their regulatory commitments.
5. In September 1985, through-wall cracks were discovered in two main steam turbine bypass lines at the Fermi 2 plant. Subsequently, all 30" diameter and all 24" diameter lines, up to the turbine pedestal wall, were replaced with a thicker wall pipe. In addition, piping vibration was analyzed and necessary pipe supports were redesigned as part of the corrective action taken. The root cause of the problem was determined to be acoustically induced flutter of the pipe wall.

In a letter to NRC dated November 7, 1986, the licensee provided final results of Hopper's analysis indicating that the main steam turbine bypass lines are acceptable if cumulative operation with bypass valve position between 30 percent and 45 percent opened does not exceed 100 days.

In a letter from Detroit Edison to NRC, dated February 20, 1987 (VP-NO-87-0027), the licensee made the following commitment: "RACTS No. 87088: A record will be maintained for the cumulative operation time of the west bypass line while the bypass valve is opened between 30% and 45%." There is no correspondence back from NRC to the licensee regarding approval or acknowledgement of this commitment.

In a recent letter to NRC, the licensee deleted this commitment, since recording and reporting of the cumulative hours of operation with bypass valves open, is done by a plant computer, under another commitment (RACTS 20028). This mode of operation is limited to 100 days for the life of the plant. The licensee reports this on an annual basis and the current value is 42.91 days per Detroit Edison letter No. NRC-12-0025, dated April 26, 2012 (ADAMS Accession No. ML12118A147).

In February 20, 1987 letter, the licensee also stated that if the cumulative operating time of the west bypass line with bypass valve opened between 30 percent and 45 percent exceeds 80 days, a reassessment of the line condition will be made and appropriate actions will be taken. However, the part regarding reassessment has never been made into a commitment. This is critical since the licensee at present does not have an alternate plan if the limit of 100 days were to be exceeded. This is also important since the licensee has future plans for the license renewal of Fermi 2.

The licensee stated that Fermi 2 has this item on their list as an issue, which will be addressed during their application for the license renewal. This issue has been brought to the attention of Fermi 2 resident inspectors, NRR management and staff and the management of Division of License Renewal, and is expected to be identified as a Time-Limited Aging Analysis for the purpose of license renewal under Part 54.

### 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  
Norman Gerow  
Marc A. Brooks  
Michael Williams  
Paul Roelant

Principal Contributor: M. Chawla

Date: December 5, 2012

**ATTACHMENT**

**SUMMARY OF AUDIT RESULTS**

**REGULATORY COMMITMENT AUDIT PERFORMED JULY 31 - AUGUST 3, 2012**

**FERMI 2**

**Audited Fermi-2 Regulatory Commitments Subject to Audit**

Item No.	Licensee's Commitment Tracking No. RACTS	Commitment Date	Licensee's Submittal	Description of the Commitment	Implementation Status
1	87088	02/20/1987	VP-NO-87-0027,	Confirm that a record is maintained for the cumulative operation of the west main steam turbine bypass lines while the bypass valve is open between 30% and 45%.	Deleted. Recording is now done by a plant computer instead of using the original plant chart recorder. Cumulative hours of operation are reported annually to the NRC per RACTS No. 20028.
2	20028	11/07/86	VP-86-0154	Submit the Main Steam Bypass Line Report per VP-86-0154. This report can be submitted concurrently with the Annual Occupational Radiation Exposure Report, Annual Safety Relief Valve Challenge report, or Emergency Core Cooling System Cooling Performance Evaluation Model changes or errors Report.	Open
3	94092	03/11/1994	IR 93-022	Changes were made to the work control and protective tagging process to ensure that proper plant conditions and protective tagging for the total work package are established before the Nuclear Shift Supervisor releases a work package.	Deleted. This commitment is no longer necessary because of a revision in the Tagging/Work Control Process from tagging the entire work package to tagging individual tasks within the work package. This revised process ensures that each task is properly tagged prior to the task being released for work to commence.

Item No.	Licensee's Commitment Tracking No. RACTS	Commitment Date	Licensee's Submittal	Description of the Commitment	Implementation Status
4	03394	07/13/1984	EF2-69210	Contracts for Non-Destructive Examination (NDE) require that personnel be qualified in accordance with IEB 83-02.	This commitment is no longer necessary because the qualifications have been replaced by ASME Section XI, Appendix VIII requirements.
5	88411	08/05/1988	NRC-88-0191	Contracts for NDE will require demonstrations of qualifications as per the Electric Power Research Institute guidelines.	This commitment is no longer necessary because the qualifications have been replaced by ASME Section XI, Appendix VIII requirements.
6	07797	03/14/1986	NP-86-0116	Corrective Action was to revise all Emergency Diesel Generator (EDG) operating procedures, which require slow starting, to slow start the engine at approximately 550 Revolutions Per Minute (RPM) instead of 400 RPM.	This commitment is no longer necessary because EDG speed control system was replaced and does not allow the option to set the engine speed below 550 RPM.
7	20107	07/07/2003	NRC-03-0010	Develop access authorization status categories.	This commitment is no longer necessary because NEI 03-01 as endorsed by NRC has been implemented at Fermi 2. NEI 03-01 replaced this commitment.
8	20108	01/07/2003	NRC-03-0010	Verify the true identity of applications for unescorted access.	This commitment is no longer necessary because NEI 03-01 as endorsed by NRC has been implemented at Fermi 2. NEI 03-01 replaced this commitment.
9	20109	01/07/2003	NRC-03-0010	Per NRC Order for access authorization issued on January 7, 2003, Nuclear Security will revise implementing procedures to further identify the types of records and references that may be used to satisfy these requirements.	This commitment is no longer necessary because NEI 03-01 as endorsed by NRC has been implemented at Fermi 2. NEI 03-01 replaced this commitment.

Item No.	Licensee's Commitment Tracking No. RACTS	Commitment Date	Licensee's Submittal	Description of the Commitment	Implementation Status
				Procedures will be revised to include the elements delineated in the guidance contained in the order.	
10	20110	01/07/2003	NRC-03-0010	Per NRC Order on Access Authorizations for updated unescorted access verify employment/unemployment history.	This commitment is no longer necessary because NEI 03-01 as endorsed by NRC has been implemented at Fermi 2. NEI 03-01 replaced this commitment.
11	20111	01/07/2003	NRC-03-0010	Per NRC Order for access authorization issued on January 7, 2003, it is required for initial and updated unescorted access applications to undergo professionally accepted and standardized psychological evaluations.	This commitment is no longer necessary because NEI 03-01 as endorsed by NRC has been implemented at Fermi 2. NEI 03-01 replaced this commitment.
12	20112	01/07/2003	NRC-03-0010	Per NRC Order for access authorization issued on January 7, 2003, to ensure inquiries for reinstatements are conducted, DECO will apply the provisions delineated in section 1.2.D of the guidance contained in the order for reinstatement of unescorted access authorization.	This commitment is no longer necessary because NEI 03-01 as endorsed by NRC has been implemented at Fermi 2. NEI 03-01 replaced this commitment.
13	20122	01/07/2003	NRC-03-0010	Per NRC Order for access authorization issued on January 7, 2003, personnel information management requirements will be	This commitment is no longer necessary because NEI 03-01 as endorsed by NRC has been implemented at Fermi 2. NEI 03-01 replaced this commitment.

Item No.	Licensee's Commitment Tracking No. RACTS	Commitment Date	Licensee's Submittal	Description of the Commitment	Implementation Status
				developed. Revise procedures to add additional guidance contained in the order for the protection, transmission, storage and access of the information obtained during a background investigation.	
14	88383	07/25/1988	IR 88-012	Unresolved Item 88-012-07: Overtime for Technical Group	This commitment is no longer necessary because the activity has been eliminated by the Code of Federal Regulations 10 CFR 26.
15	91241	08/16/1991	IR 91-015	Unresolved Item 91-015-06: Violation of Technical Specification Overtime Limits. On approximately 390 occasions, Technical Specification required overtime limits were exceeded without appropriate management approval. The deviations, which happened throughout the outage, occurred in numerous onsite departments. Quality Assurance (QA) initiated the subject Deviation Event Report (DER) to track resolution of the issue which the Plant Manager assigned to himself for follow up. At the end of the inspection period, Corrective Actions were under development to preclude repetition.	This commitment is no longer necessary because the activity has been eliminated by the Code of Federal Regulations 10 CFR 26.

Item No.	Licensee's Commitment Tracking No. RACTS	Commitment Date	Licensee's Submittal	Description of the Commitment	Implementation Status
16	93029	01/15/1993	NRC-92-0137	Reply to Notice of Violation 92-017-01, "Ineffective Corrective Actions for Overtime Violations" FIP-AD4-03 will be revised to contain additional guidance to track overtime, to define shift turnover and to define work periods. Emphasis will be placed on the process for submitting and approving staffing deviation forms. Overtime restrictions will be limited to those situations defined in Technical Specification Section 6.2.2.F.	This commitment is no longer necessary because the activity has been eliminated by the Code of Federal Regulations 10 CFR 26.

J. Plona

- 2 -

However, as described in the enclosed audit report, there were additional observations made during the audit, which were discussed with the licensee during the exit meeting on August 3, 2012. 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  
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