

CHRISTOPHER E. EARLS
Director, Safety-Focused Regulation
Nuclear Generation Division
1201 F Street, NW, Suite 1100
Washington, DC 20004
P: 202.739.8078
cee@nei.org
nei.org



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July 26, 2013

Mr. Cindy K. Bladey
Chief, Rules, Announcements, and Directives Branch (RADB)
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Industry Comments on Baseline Inspection Program Enhancement Project (78 FR 35056; Docket ID: NRC-2013-0125)

Project Number: 689

Dear Ms. Bladey:

On behalf of the nuclear industry, the Nuclear Energy Institute (NEI)¹ appreciates the opportunity to provide industry comments on the ongoing project to enhance the Baseline Inspection Program of the Reactor Oversight Process. The comments we provide below echo the oral remarks we provided at the July 17, 2013, public meeting on the baseline inspection review. As we indicated at that time, the NRC's review of the Baseline Inspection Program is very timely and important to us. The baseline inspection program has been demanding more and more resources for licensee support in recent years, while yielding little additional benefit to public health and safety or confidence in the NRC or the industry. We believe it is essential for the NRC to carefully consider how it deploys its inspection resources to ensure maximum results and minimal burden on the licensee resources available to ensure the safety of our facilities. The Baseline Inspection Program review is an important step in that direction.

¹ The Nuclear Energy Institute (NEI) is the organization responsible for establishing unified 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 cycle facilities, nuclear materials licensees, and other organizations and entities involved in the nuclear energy industry.

Our comments respond to questions posed in the referenced *Federal Register* announcement and discussed at the July 17, 2013, public meeting on this subject. Throughout our responses, you will see several themes running through our suggestions for improving the Baseline Inspection Program:

- The NRC should reduce or eliminate low-value inspection components, and reduce the burden of current approaches to baseline inspection activities. For example, we believe it should be possible for the NRC to standardize the information requested in advance of large-team inspections. The present ad hoc, custom approach imposes a significant burden on each site. The current scheduling of team inspections also poses an undue burden when team inspections fall on top of one another in a given year. With some thought, the NRC should be able to coordinate and schedule major team inspections so that in the aggregate, the burden they impose on the licensee is reduced from the current level.
- The NRC should take greater advantage of resident inspector activities to determine where inspections should focus. Resident inspectors are the NRC's eyes and ears onsite and experience many facets of plant operations (e.g., the radiation protection program) that are subject to regional inspections. We suggest the NRC leverage their direct, daily experience more to sharpen the focus of regional inspections on high-value areas.
- The NRC should increase the transparency of decision-making in key processes used to implement and support the baseline inspection program (e.g., the processes for implementing Task Interface Agreements (TIA) and developing changes in inspection procedures and manual chapters). The TIA process should allow for stakeholder input in a timely way, so that results are not a surprise to licensees or the public. The reasons for changing inspection procedures should be made clearer, and linked to budgeted inspection hours to ensure a proper balance is maintained between the effort expended by NRC and the licensee and the results expected from each inspection procedure.
- The NRC should ensure that all parts of the ROP work together to promote regulatory compliance, rather than penalize noncompliance. Licensees maintain extensive programs for identifying and implementing corrective actions and they utilize these programs to find and fix problems every day. The ROP should recognize and reward licensees for self-identifying and fixing problems through the site corrective action process. This will help ensure NRC oversight resources are directed to areas that are most likely to add to the value already and routinely contributed by the licensees' own corrective action programs.

We would also like to echo remarks made by the Union of Concerned Scientists and others at the July 17 meeting urging the NRC to do away with the use of cross-cutting aspects (CCA) and significant cross-cutting issues (SCCI). Although undertaken with good intentions, time and experience have shown that these are a great distraction for both NRC and industry. The lack of clarity in how these are assigned and resolved and how they influence safety culture has led to immense diversions of NRC and industry resources while

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yielding, at best, uncertain benefits to safety. We believe the recent completion of the nuclear safety culture common language offers NRC a perfect opportunity to replace the SCCIs with a better alternative. In the strongest of terms, we urge the NRC to suspend the use of CCAs and SCCIs while we work together to determine that better alternative.

Our responses are provided in the attachment.

We look forward to further discussions on this topic. If you have any questions, please contact James Slider (jes@nei.org, 202-739-8015) or me.

Sincerely,

A handwritten signature in black ink that reads "Chris Earls". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Christopher E. Earls

Attachment

c: Ms. Marsha K. Gamberoni, NRR/DIRS/IRIB, NRC
Mr. Ho Nieh, NRR/DIRS, NRC

**Industry Comments on Baseline Inspection Program Enhancement Project in Response to
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1) What issues/programs/ components, if any, should be covered by the ROP baseline inspection program, but are not? What areas, if any, are covered by the ROP baseline inspection program that should not be?

We do not see any issues/programs/components that should be covered by the ROP baseline inspection program but are not. Regarding areas presently covered by the baseline inspection program, our feedback follows below.

CDBI – The Component Design Basis Inspection (CDBI) [NRC Inspection Procedure 71111.21] seems to have decreased in effectiveness over time. For this inspection and every other component of the baseline inspection program, the NRC should ask “what value are we trying to get out of this inspection that only inspection can deliver?”

Licensee Self-Assessments – Licensee self-assessments are an important part of plant culture and oversight today. Licensees use self-assessments in a variety of ways, and commonly perform self-assessments in anticipation of planned NRC inspections. This promotes awareness of program performance and requirements. The NRC should consider how to leverage licensee self-assessments to help streamline the baseline inspection program.

PI&R – The Problem Identification and Resolution (PI&R) Inspection (IP 71152) is key to the strength and value of the ROP baseline inspection program. We would encourage the NRC to focus on the PI&R inspection in this review of the baseline inspection program. Every effort should be made to ensure that the PI&R inspection is delivering maximum value at minimal burden on NRC and licensee resources.

Resident Inspectors – Resident Inspectors are a vital resource for the ROP. They are able to monitor licensee programs on an ongoing basis, as well as maintain awareness of plant activities and issues. Their insights from working in the plant every day can help to focus NRC’s regional and headquarters resources. For example, they see and experience implementation of the Radiation Protection program every time they go into the plant. Similarly, their position makes it relatively easy for them to observe radwaste shipments. Their observations and insights should be credited to the baseline inspection program for the Radiation Protection Cornerstone (IP 71124.XX).

2) How can the baseline inspection program be more efficient and/or effective?

Information Requests – The NRC should strive to standardize its pre-inspection information requests, especially for the big team inspections. Most of the information that will ultimately be requested appears to be known by NRC well before the inspection. If that could be communicated well in advance of the inspection, this would help licensees to level the demand on resources created by the NRC’s document requests. This would also reduce the level of effort needed for pre-inspection site visits by NRC personnel. Currently pre-inspection visits are impacting licensee resources at a level comparable to a week of direct inspection.

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Electronic Portals – A range of electronic options are available for sharing licensee documents with the NRC that were not so common when the baseline inspection program was established. The NRC should work with licensees and public stakeholders to leverage Sharepoint sites and other technologies to give inspectors what they need, when they need it, in a way that is least taxing on licensee resources.

Cross-Cutting Aspects – The NRC should suspend the application of Cross Cutting Aspects (CCA) to inspection findings and the use of Significant Cross-Cutting Issues (SCCI) to influence site culture. The use of CCAs and SCCIs has proven a distraction for both NRC and industry and yielded, at best, uncertain benefits to safety. The recent completion of the safety culture common language offers the perfect opportunity to re-think the NRC's SCCI construct. In addition, the industry now has the NEI 09-07 process, which was not available when the NRC launched its SCCI framework, to self-monitor site safety culture. We urge the NRC to work with stakeholders to determine a better alternative to the current use of CCAs and SCCIs.

Common Language Implementation – We urge the NRC to accelerate the implementation of the nuclear safety culture common language throughout the Inspection Manual documents. The sooner the NRC brings its inspection documents into alignment with the common language, the better for NRC, licensees and other stakeholders interested in safety culture issues anywhere in our industry.

Temporary Instructions (TIs) – The use of TIs should be examined. A recent case (the cyber security TI) led to conflicting expectations by NRC and industry. In this case, the NRC's expectations were poorly communicated, resulting in wasteful strife and commotion as licensees scurried to address the NRC's interests. In another case, the work hours rule, the NRC staff worked closely with stakeholders during the implementation phase. The first round of inspections focused on process, to assure that the licensees had the appropriate systems in place to implement the rule. When a beneficial change was identified (changing the averaging period), the NRC worked with the licensees to make it happen.

Actuals versus Estimates – Billings for inspection hours exceed estimates by factors of two or three in some cases. This creates problems for licensees who have not budgeted for the NRC's overages. Either the estimated inspection hours should be revised to reflect actual experience, or inspectors should be asked to complete their work within the hours budgeted for each inspection. When they have to exceed budgeted hours due to extraordinary circumstances, inspectors should justify their deviation from estimated hours and this information should be made publicly available.

New/Emerging Issues – New and emerging inspection issues can be handled more effectively by getting them into the right regulatory process. When the NRC identifies an emerging generic issue through an inspection, the NRC should address resolution of that issue outside of the inspection/enforcement process associated with the individual site (or first few sites) at which the issue was first raised. Several examples of issues identified during inspections include:

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- Seismic stack up – used fuel storage casks
- Operations with the Potential to Drain the Reactor Vessel (OPDRVs)
- Safety System Functional Failure (SSFF) reporting – train vs. system

The NRC's handling of such emerging issues often appears first as an inspector's rejection of a practice or condition that, from the licensee's perspective, was long-standing and accepted by previous generations of NRC inspectors as complying with the regulations. The basis for the inspector's new regulatory position often is not made clear and not communicated through the appropriate, formal mechanisms used to revise and promulgate regulatory policies. Interim communications are appropriate when licensees need to assess the need for interim compensatory measures, pending final disposition of the new regulatory position. The final disposition should be appropriately communicated to licensees as well as inform the baseline inspection program to ensure application consistent with the NRC's regulatory reliability effort across the Regions.

The Task Interface Agreement (TIA) process, sometimes used to address emergent issues, should be made more open to stakeholder input and the basis for decision made more transparent.

3) What redundancies exist in the baseline inspection program? For example, do the current baseline inspection procedures have the correct breadth to ensure we are not inspecting the same things?

Licensee corrective action programs are reviewed during routine inspections, PI&R samples and PI&Rs inspections. If the baseline inspections and the PI&R samples do not detect significant concerns with the corrective action program, the frequency of the PI&R inspection should be extended or the scope of the inspection reduced.

4) What ways are there to increase the NRC's focus on the most significant performance issues at a plant? Are there areas of licensee plant operations and performance which warrant increased or new NRC focus? Are there areas where the NRC's focus should be decreased?

Beyond-Design-Basis Issues – The NRC should discuss with stakeholders how Beyond-Design-Basis (BDB) issues (post-Fukushima) will be handled with regard to the baseline inspection program. It is unclear how the significance of findings related to BDB issues is to be evaluated. The BDB issues are extremely low probability events. The baseline inspection program should ensure that inspection of BDB issues does not distract the sites' focus on maintaining safety against much likelier risks.

SDP – The method used to determine significance of findings/violations needs to be modified for some areas, specifically in emergency planning and security. In these areas it is very easy to get elevated enforcement actions. These actions often appear inconsistent with the safety significance of a comparable concern related to plant systems performance.

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These elevated enforcement actions in EP and Security require significant site response, and take resources and attention away from the plants' focus on safe plant operations.

- 5) **How can we improve the existing baseline inspection procedures to result in findings that have a clear tie to nuclear safety, are indicative of current performance, and provide the most insight?**

Minor Violations – Equipment issues are often screened as Green, when they are more appropriately treated as minor violations. The current screening guidance (Inspection Manual Chapter 0612, App. B) should be improved so inspectors apply the examples as guidance, instead of looking for an exact match to the specific circumstances. Additionally, minor issues are often determined to be more than minor using the “if left uncorrected” criteria. This can misdirect licensee resources because it becomes an NRC Green finding, when the licensee processes are already appropriately addressing the issue.

- 6) **How can we better integrate operating experience into the baseline inspection program?**

It is not clear how NRC chooses to implement OE. Sometimes OE appears as an OpE Smart Sample, sometimes an Information Notice, other times an inspector with an OE-related issue, sometimes a special inspection on an OE item, rather than fold the OE into the baseline program. It would be helpful for NRC to explain how it decides which vehicles to use for implementing operating experience in the baseline inspection program.

- 7) **What changes, if any, can be made to the existing baseline inspection program to ensure we are sufficiently evaluating age related degradation or failures of passive or active systems, structures, or components?**

It is appropriate for the baseline inspection program to include passive components that have been identified as part of licensee Aging Management Programs. Update of the current baseline inspection procedures is recommended; new inspection procedures are not needed.

NEI is also developing guidance for licensee self-assessments of their Aging Management Programs. The NRC baseline inspection effort should take this into consideration.

- 8) **What changes, if any, should be made to the baseline inspection program to ensure it is adequate for the current environment (e.g. external event uncertainties, plants entering extended operation, effects of power uprates, new corporate/financial structures, etc.)?**

Inspection Hour-Neutral – Any changes in the baseline inspection program to add new, higher priority components (e.g., Fukushima and severe-weather issues) should be offset by removing an equal number of hours assigned to lower priority components of the baseline inspection program.

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Financial Review – Corporate financial review should be outside the ROP. The NRC has other processes that are better suited to evaluate this area. Most NRC inspectors do not have the necessary qualifications to appropriately evaluate this area.

9) What changes should be made to the frequency of team inspections?

Value/Frequency – Consideration should be given to extending the frequency of inspections that don't identify findings commensurate with the level of effort required. An example to consider is the Modification/50.59 inspection. We would urge the NRC to modify team inspection schedule so that, in the aggregate, a site faces no more than one major team inspection in any given year.

Communications with Senior Management – Senior management interactions between NRC and licensees should be strengthened to discuss why an inspection is being conducted and the approach to be taken.

Scheduling – Inspection scheduling should be improved. Comanche Peak will be supporting five significant team inspections within an eight month interval over 2013-2014 (Triennial Fire Protection, Problem Identification and Resolution, Component Design Basis Inspection, Security Force-on-Force, and Emergency Preparedness Graded Exercise). Without adjustments, this coincidence will be repeated in three years. With forethought and accommodation, these peak coincidences could be reduced and the impact on licensee resources smoothed.

Outage Inspections – Unless operating history indicates regulatory issues, there should be no annual/cycle inspections. For example outage inspections where there is no history of issues should not be scheduled every outage. NRC could schedule outage inspections on alternate units for multiple-unit sites, but each unit outage does not need to be inspected each cycle.

10) Security

Overlap – There can be overlap/redundancy between the Protective Strategy Evaluation and Force-on-Force (FOF) exercise inspections. For example, since the FOF exercise reviews and tests the site's protective strategy, it makes no sense to conduct a Protective Strategy Evaluation soon after, which sometimes happens. The staff should take credit for the FOF exercise and defer the Protective Strategy Evaluation inspection during FOF years.

Target Sets – The specific target set inspection has been moved away from the FOF exercise inspection, which has been a good move. However, the SRAs are still participating in the FOF exercise activities and, for all practical purposes, are conducting another target set review. This is redundant and unnecessary. The target sets should/must be established and set at the FOF exercise to ensure an effective exercise. Licensee cyber security implementation is to be evaluated using Temporary Instruction 2201-04, which reflects the NRC expectations for Milestones 1-7. The NRC inspection teams are being augmented with

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contractors with cyber security expertise, which is appropriate. However, we are seeing variability of focus areas by the NRC Contractors, which can cloud whether the NRC expectations are being met. This is an area in which it is especially important for industry and NRC to be aligned.