

## BACKGROUND

The proposed GI involves the potential risk increase due to changes in site environs resulting from man-made activities. The submittal raised the possibility that many operational units may have experienced significant growth related to transportation or nearby facilities which could alter the risk potential to the plant from external hazards. The submittal provided relevant examples from staff evaluations of applications for new nuclear units co-located with existing reactors, evaluations performed for compliance with State or other Federal Agency requirements, or as part of NRC's resolution of petitions or allegations.

The submittal stated that a periodic reassessment based on changed information would further ensure the safe operation of the plant, and noted that this reassessment is not currently required.

Further, the submittal asserted that while applicants are required to periodically update their Final Safety Analysis Report (FSAR) pursuant to Title 10 of the Code of Federal Regulations (10 CFR) 50.71, nearby hazards are generally considered "historical information" in plant FSARs and are not updated and that there is no NRC regulatory requirement to assess the potential risk increase from man-made activities attributing to the site environs.

## ACCEPTANCE REVIEW RESULTS

The Generic Issues Program staff performed an acceptance review of the proposed GI using the criteria provided in Management Directive 6.4 (MD 6.4), "Generic Issues Program," dated November 17, 2009, (ADAMS Accession No. ML083181192). Seven specific criteria are outlined in the Management Directive, none of which can result in a negative response if the proposed issue is to be accepted into the Generic Issues Program.

### *Generic Issue Criterion A*

Generic Issue Criterion A is "the issue affects public health and safety, the common defense and security, or the environment." The submittal provided relevant examples that could potentially pose an increased risk for safe plant operation. The submittal also stated that prior evaluations of these examples were either not performed for existing operating plants (in the case of staff evaluations of applications for new nuclear units co-located with existing units) or had concluded that the examples did not pose a threat to the safe operation of the associated plants. In addition, examples provided are not amenable to risk quantification using standard risk assessment tools and methods, such as Standardized Plant Analysis Risk (SPAR) models. Criterion A is further explained in Appendix A, "Generic Issue Criteria" of Office of Nuclear Regulatory Research (RES) Office Instruction TEC-002, Rev. 2, "Procedure for Processing Generic Issues." RES TEC-002 states that in "cases where probabilistic tools and methods are not useful, the decision to accept the issue in the Generic Issues Program is generally based on more qualitative elements linked to NRC's strategic plan and expert judgment.

In general, only those issues that represent credible threats to NRC's strategic and performance goals and measures, unless current regulatory programs are changed, meet this criterion." The assessment of the Generic Issue Program's staff is that the information provided in the submittal does not raise an issue that represents a credible threat to the NRC's strategic and performance goals and measures. Accordingly, Generic Issue Criterion A is not met.

### *Generic Issue Criterion C*

Generic Issue Criterion C is "the issue cannot be readily addressed through other regulatory programs and processes; existing regulations, policies, or guidance; or voluntary industry initiatives." An NRC White Paper, "NRC and Licensee Actions in Response to New Information from a Third Party," (M112730379, not publicly available, non-sensitive) discusses regulations and NRC expectations relevant to this proposed issue. The White Paper concludes:

"The NRC expects licensees to address new information from a third party that could affect the plant, but it has no clear requirement that licensees address new third-party information of which they become aware. Licensees should determine whether the information should be considered under any of the existing, applicable regulatory requirements. Examples of such programs are operability determinations, 10 CFR 50.59 evaluations, corrective actions under Criterion XVI of Appendix B to 10 CFR Part 50, and quality assurance program requirements. The NRC may prompt a licensee to do an evaluation by using a 10 CFR 50.54(f) letter or, for multiple plants, generic communications.

Furthermore, the licensee should consider whether or not to update its FSAR as a result of new third-party information that could have a safety impact on the plant. The regulations in 10 CFR 50.71(e) do not specifically require a licensee to update its FSAR based on new third-party information. However, if the licensee (or its representatives) performs an evaluation or analysis of the new information to satisfy an NRC requirement or at the request of the NRC, the licensee may need to update the FSAR based on the results of the evaluation or analysis. If the NRC disagrees with the licensee's evaluation and believes that the licensee should make changes to the FSAR in accordance with NRC requirements, including those in 10 CFR 50.71(e), regulatory processes are available to address the issue."

Further, as noted in the submittal, licensees are required to periodically update the FSAR as a part of regulatory requirement 10 CFR 50.71. Specifically, 10 CFR 50.71(e)(4) requires that subsequent revisions must be filed annually or 6 months after each refueling outage provided the interval between successive updates does not exceed 24 months. The revisions must reflect all changes up to a maximum of 6 months prior to the date of filing.

Staff has described methods acceptable for FSAR update compliance in Regulatory Guide 1.181 (RG 1.181) "Content of the Updated Final Safety Analysis Report in Accordance with 10 CFR 50.71(e)." In RG 1.181 Revision 1, staff endorsed Nuclear Energy Institute (NEI) 98-03, "Guidelines for Updating Final Safety Analysis Reports," dated June 1999, as providing acceptable methods. As with all Regulatory Guides, compliance is not required. Methods and solutions different from those set out in the guides will be acceptable if they provide a basis for the findings requisite to the issuance or continuance of a permit or license by the Commission.

Appendix A of NEI 98-03 states:

Absent an NRC requirement, licensees need not update historical information in UFSARs [Updated FSARs] to reflect minor changes in population data or other such changes in the site environment. **However, licensees should evaluate potentially significant changes in the site environs, e.g., a new natural gas line within the site boundary or a major new industrial facility near the plant site, to determine if notification of NRC and appropriate update of the UFSAR are required.**

For example, 10 CFR 50.9 ["Completeness and accuracy of information"] requires licensees to "notify the Commission of information identified by the applicant or licensee as having for the regulated activity a significant implication for public health and safety or common defense and security." (emphasis added)

The Generic Issues Program staff's assessment is that current regulatory programs, processes, and guidance provide ample mechanisms to address this issue. Accordingly, Generic Issue Criterion C is not met.

#### *Generic Issues Criterion E*

Generic Issues Criterion E is "the issue's risk or safety significance can be adequately determined." As noted above, licensees are not explicitly required to evaluate or report changes to man-made external hazards that may affect their plants, so the information to adequately determine the risk significance of this issue is unavailable without either requesting the information from licensees or collecting the information onsite. Accordingly, Generic Issue Criterion E is not met.

## CONCLUSION

The proposed GI regarding the assessment and update of the FSAR resulting from the potential increase in risk due to man-made activities does not meet several criteria for acceptance as a generic issue. As such, it will not be accepted into the Generic Issues Program.

As noted in NRC White Paper, "NRC and Licensee Actions in Response to New Information from a Third Party," several regulations are potentially germane to the issue of increased risk due to man-made external hazards. Accordingly, NRC may inspect in this area, and may prompt further evaluations (either by individual plants or generically), as appropriate. Similarly, the White Paper concluded that regulatory processes are available to address FSAR updates. In a meeting with NRR/JLD and RES/DRA on November 19, 2013, possible paths forward were discussed. In addition to options mentioned in the White Paper, rulemaking or initiation of a User Need Request to develop a technical basis for rulemaking were discussed.