

December 11, 2014

Rodney J. McCullum,
Director of Used Fuel Programs
Nuclear Energy Institute
1201 F Street NW, Suite 1100
Washington, DC 20004

SUBJECT: 2ND INTERIM RESPONSE TO THE SEPTEMBER 10, 2012, NEI SUBMITTAL:
"GUIDELINES FOR 10 CFR 72.48 IMPLEMENTATION," REVISION 0

Dear Mr. McCullum:

The Nuclear Regulatory Commission (NRC) staff's review is ongoing for the Nuclear Energy Institute (NEI) 12-04, "Guidelines for 10 CFR 72.48 Implementation," Revision 0 (Agencywide Document Access Management System (ADAMS) Accession No. ML12258A354). The NRC staff issued its first interim response to NEI 12-04, (ADAMS Accession No. ML13260A029) dated September 26, 2013, that provided global comments and edits on selected sections to illustrate how to address those comments. The NRC's 10 CFR 72.48 Task Group is providing this second interim response on NEI 12-04 to allow NEI review of the NRC comments and edits on the guidance text of the document. The NRC Task Group continues to review the examples provided in Appendices A and B of the draft guidance document NEI 12-04. Comments on the appendices will be forwarded in the final letter.

The staff's comments and edits from the first interim response need to be considered together with those reflected in this second interim response. Many of the staff's comments and edits are global and, therefore, NEI should ensure that conforming changes are made throughout the entire NEI 12-04 document. For example, the staff would replace "activities" with "changes" to stay consistent with the existing guidance in NEI 96-07, Appendix B, "Guidelines for 10 CFR 72.48 Implementation," (ADAMS Accession No. ML010670023), which the NRC endorsed in Regulatory Guide 3.72, "Guidance for Implementation of 10 CFR 72.48 Changes, Tests, and Experiments," (ADAMS Accession No. ML010710153).

Although most of the suggested edits and comments are on the new proposed guidance drafted by NEI, the staff has also identified some ambiguities within the existing guidance. Therefore, some of the staff's comments and edits are intended to add clarity. The staff also identified several references in the guidance document, where NEI applied only the eighth criteria to changes regarding method of evaluation (MOE), implying that there was no need to review the change against the first seven criteria. The staff has determined that changes should be evaluated against all eight 10 CFR 72.48 criteria. The staff position on MOE approvals is included as Enclosure 1. Enclosure 2 is a redline strike-out version of NEI 12-04, and includes comments in the right-hand margin.

Of particular note, Section 6.1 of NEI 12-04 contains a discussion of probabilistic risk assessments (PRAs), but it is not clear from the discussion whether PRAs (or PRA techniques) would be applied consistently in a manner that is technically adequate to support 72.48 evaluations. The 1999 statement of considerations implies that use of PRAs for 72.48 evaluations would necessitate additional changes to the rule beyond those made in October 1999, and it is thus not clear that using PRAs for 72.48 evaluations is authorized (see 64 FR 53582). The licensing basis (e.g., cask safety analysis report) and 72.48 address design-basis events, but the staff is not aware of any PRAs that focus on design-basis events covered by Part 72. The staff recognizes that both industry and the staff have developed significant experience using PRAs and PRA techniques for power reactor evaluations, including issuance of industry standards and NRC regulatory guides, however, this is not the case for storage casks and ISFSIs. As a result, the use of PRAs in 72.48 evaluations needs to be further justified.

If you have any questions regarding the staff review, please contact Raynard Wharton. He can be reached at (301) 287-9196. If you are interested in discussing the review in a public meeting, propose a meeting date to John Wise, NRC NEI Counterpart, at (301) 287-3585 and he will coordinate the meeting.

Sincerely,

/RA/

Patricia A. Silva, Chief
Inspections and Operations Branch
Division of Spent Fuel Management
Office of Nuclear Material Safety
and Safeguards

cc: Kristopher Cummings, NEI

Enclosure 1 – NRC Staff Position on Method
of Evaluation Approval

Enclosure 2 – Redline Strike-out Version of
NEI 12-04, “Guidelines for
10 CFR 72.48 Implementation,”
Revision 0 Including Marginal
Comments

