

**Enclosure 1: NRC Comments on draft NEI 98-03 revision relative to 10 CFR Part 52**

Comment #	Location	Comment
1	Foreward	<p>10 CFR 50.71(e), referenced in the foreword, speaks to annual updates of the final safety analysis report (FSAR) submittal of a Part 52 Combined License (COL) applicant. Updating COL application FSARs is also discussed in various sections of the draft revision of NEI 98-03 (e.g. sections 6.1 and 7). The foreword, the introduction and other sections speak in terms of "Licensee" which would not include the Part 52 applicants still under licensing review. Does this mean that those FSARs are not to be updated in a manner laid out in NEI 98-03? Is this document only meant for licensees and not also Part 52 applicants?</p> <p>Consider adding clarification to this matter in the foreword, introduction, and later sections. In addition, the title is misspelled. "Foreward" should be "Foreword".</p>
2	General, All	<p>The Nuclear Energy Institute (NEI) should ensure that when a specific subsection of a regulation is stated that it has all of the necessary wording (e.g., citing 10 CFR 50.47(a) vs 10 CFR 50.47).</p>
3	Section 2, paragraph 2	<p>Recommend adding "originally" or other qualifying statement so that 3rd sentence reads "The industry <u>originally</u> developed this guidance...." to give the right historical context. As written, this states the updated final safety report (UFSAR) needs to comply with 10 CFR 50.71(e) update requirements but does not mention other requirements such as specific reporting requirements for nuclear plants licensed under 10 CFR Part 52 contained in Section X of the referenced design certification rule as applied to the plant specific design control document (DCD). The guidance should be comprehensive and reference other requirements either specifically or generally.</p>
4	Section 2, paragraph 3	<p>Suggest only referencing FSAR requirements related to COLs one time in the document, but again (as in comment 21) break down for the reader via a list or other method each time an update to the FSAR is required via the 10 CFR Part 52 process.</p>

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5	Section 2, paragraph 3	Specific reporting requirements contained in Section X of the referenced design certification are referenced. Consider discussing also change requirements in Section VIII.
6	Section 2, paragraph 3	Consider deletion or modification of the following text related to requirements for UFSAR updates to reduce repetitiveness in the sentence structure: "Nuclear power plants licensed under 10 CFR Part 52 are also subject to 10 CFR 50.71(e). 10 CFR 50.71(e) contains unique FSAR updating requirements for COL applicants and for holders of a COL until the Commission makes its finding under 10 CFR 52.103(g). Subsequent to the 10 CFR 52.103(g) finding, the provisions of 10 CFR 50.71(e) are identical for nuclear plants licensed under 10 CFR Part 52 and nuclear plants licensed under 10 CFR Part 50."
7	Section 2	For Part 52 COL Holders, this guidance for UFSAR updates should include guidance regarding the particular case of an entity who is updating their UFSAR following receipt of the NRC's 52.103(g) finding. Where a plant has a FSAR/UFSAR that combines more than 1 reactor unit into 1 FSAR/UFSAR document for convenience, issues will be created by the issuance of NRC's 52.103(g) finding (such as the expiration of certain Tier 2* requirements) for the "first" unit. This example is a very specific one that can be dealt with on a case-by-case basis in consultation with the applicable regulatory authorities. In addition, for cases where a COL Holder has a Tier 1 FSAR/UFSAR and a Tier 2 FSAR/UFSAR, this guidance applies to the latter only.

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8	Section 3	Additional terms that may be worth adding in Section 3 or discussing elsewhere include Tier 1 and Tier 2 FSARs (e.g., as seen on South Texas Project), as well as “mid-cycle” UFSAR updates or “interim” updates. Since the document focuses on long term operations, the pre-52.103(g) is quite important in the near term. It may be best to separate discussion of pre-52.103(g) COLs by adding more information in Section 10 and adding any appropriate additional terms to Section 3. Consider adding more discussion on COL updating during before the 10 CFR 52.103(g) finding and qualifying any new terms associated with pre-52.103(g) COLs in Section 3.
9	Section 3.3, paragraph 1	Is it appropriate to cite 52.47 since that provision addresses requirements for design certification (DC) applications and not COL applications? Shouldn't the citation <del>with respect to COLs</del> only be to 52.79?
10	Section 3.4	Recommend greater discussion differentiating expectations for obsolete information for COLs vs operating licenses, e.g., including that obsolete Information for COL Holders (Part 52 license holders) may also include information in text, tables, and figures showing information which expired on the issuance of NRC's 52.103(g) finding such as Appendix C, “Inspections, Tests, Analyses, and Acceptance Criteria.”
11	Section 3.5, paragraph 2	Text refers to all nuclear power plants (NPP) licensed under Part 52 but discussion is only for those that reference a certified design. A FSAR for a COL not referencing a certified design would not have a plant-specific DCD.
12	Section 3.5, paragraph 2	Text should also mention that a COL referencing a certified design may incorporate departures and exemptions from the certified design that must be evaluated under Section VIII of the DC rule.
13	Section 3.7, paragraph 1	Text should discuss the role of Tier 1 information in the UFSAR.

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14	Section 3.8, paragraph 1	Why not cite Section VIII of the applicable design certification rule for nuclear plants licensed under 10 CFR Part 52 as well?
15	Section 5, footnote 2	Adding "respectively" to the end of the footnote would improve clarity.
16	Section 7, paragraph 2	Consider moving the second paragraph to become the first paragraph in Section 7, since 10 CFR 50.71(e)(3)(iii) comes before 10 CFR 50.71(e)(4).
17	Section 7	Suggestion: NEI should address the industry practice of creating "interim" or "mid-cycle" updates, that is, UFSAR versions between those annual updates required by the regulations. Those "interim" updates should be addressed by NEI including their role as working documents, their level of internal review and whether they are shared with NRC.
18	Section 9, paragraph 3	Similar to comment 11, text refers to all NPP licensed under Part 52 but discussion is only for those that incorporate by reference a certified design and for material that is within the scope of that certified design. Please either qualify the statement appropriately or add additional information on COL that do not incorporate by reference a certified design.
19	Section 10, paragraph 2	Does this include Tier 1? By the reasoning presented here - it does. DCD (as supplemented by departures and exemptions) becomes plant-specific DCD (as supplemented by site specific information, etc.) becomes the FSAR. Tier 1 is part of all of these.
20	Section 10, Title	Please consider an alternate title: "Treatment of FSAR Information Unique to Combined Licenses Under Part 52 that Reference a Design Certification Rule". Note this guidance is only for COLs that reference a DCR.

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21	Section 1 (general)	Would recommend that document be updated to support and provide information that explains to the reader each of the circumstances under 10 CFR Part 52 in which the FSAR must be updated.
22	Section 10 revised (ML16166A258)	<p>At the public meeting on 5/10/16, NEI suggested adding an additional paragraph to section 10 via handout (ML16166A258) as follows: "10 CFR Part 52, Design Certification Rules, e.g., Appendix D, Section VIII.B.6.c, define certain Tier 2* information that will revert to Tier 2 information after the plant achieves full power for the first time. After the plant achieves power for the first time, the UFSAR should be modified to remove brackets, remove asterisk, and change the font of the affected information. This type of reformatting change does not require a formal simplified evaluation (screening) to be performed because the change in information classification is prescribed by the design certification rule. Licensees have the flexibility to not make these changes to the UFSAR until the last unit of a multi-unit site achieves full power."</p> <p><b>Comment:</b> The potential for delaying FSAR updates for units entering operations and achieving of full power while other units have yet to receive the Commission's 10 CFR 52.103(g) finding has implications on inspections for the operating plants. Staff recommends further detailed discussions related to licensing, exemptions, and ability to inspect operating plants if NEI wishes to include a discussion on multi-unit phasing of Tier 2* retirement.</p>

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23	Section 10&A2	Section 10 of the proposed 98-03 revision states, “As discussed in Section A6, voluntary modifications to Tier 2 that improve focus, clarity and maintainability of the plant-specific DCD [which is the stated purpose of Appendix A] are considered departures from the generic DCD and should be reported to NRC in accordance with Section X of the design certification rule.” However, Appendix A2 states, “UFSAR modifications discussed in Sections A3 through A5 that are not the result of changes to the plant or procedures <u>do not require evaluation under 10 CFR 50.59 or Section VIII.B.5.b of the applicable design certification rule ...</u> ” These statements seem at tension and possibly inconsistent. NEI should better explain what it intends.
24	Section 6.1.1	The guidance on updating UFSARs to reflect new regulations focuses on general UFSAR requirements, such as 52.79(a) (Intro) and 52.79(a)(2). However, new regulations often include specific FSAR requirements in 52.47 and 52.79 that must also be considered. For example, NEI 98-03 Revision 1 states that fitness for duty (FFD) does not need to be described in the FSAR and the proposed revision leaves this unchanged. However, 10 CFR 52.79(a)(44) specifically requires the FSAR to include “A description of the fitness-for-duty program required by 10 CFR Part 26 and its implementation.” NEI should augment the document to provide that the information to be included in the FSAR on a topic may be governed by a specific provision in the regulations, for example, 10 CFR 52.79. Further the discussion of the FFD example should be modified to reflect the different treatment for Part 50 and Part 52 plants.
25	Section 6.1.2, paragraph 1	The text references various reasons that would require changes to the UFSAR. Isn't citation of 52.98(c) appropriate?
26	Section 6.1.2	This section should include changes associated with the Part 52.103(g) finding and start up (e.g., cite Part 52 and add bullet such as "A change in the licensing status of a facility, such as the receipt of a 52.103(g) finding, that results in the need to document the expiration of license conditions, ITAAC, and Tier 2* information in the UFSAR)."

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27	Appendix A, in general	Consider stating that whatever changes, modifications, removals as presented in Appendix A are still applicable to 10 CFR Part 52 requirements – especially when handling Tier 1, Tier 2*, and Tier 2 information. A Licensee cannot just remove Tier 1 information from a 10 CFR Part 52 USFAR because Appendix A allowed it. Consider adding clarification to this matter.
28	Section A1, paragraph 2	The text refers to "reformatting, simplifying and removing existing UFSAR information." For a COL application referencing a DCR, there is a requirement in the DCR to (Section IV.2.a) on the organization, numbering, etc. So there are format requirements for COLAs.
29	Section A2, paragraph 1	Shouldn't this refer to the entire Section VIII of the DCR since Tier 1 is part of the FSAR? Or make it more clear that this is applicable to Tier 2 changes that do not involve changes to Tier 1 or Tier 2*?
30	Section A2, 1st bullet	The guidance says that there are no formatting requirements for UFSARs, but Section IV.A.2.a of the DCRs requires DC applications to include "[a] plant-specific DCD containing the same type of information and using the same organization and numbering as the generic DCD for the AP1000 design, as modified and supplemented by the applicant's exemptions and departures." Several COL applicants have requested and received exemptions from this regulation to change the organization of COL applications. NEI should explain how it has considered the Section IV.A.2.a requirement. See also comment 28 on format for COLAs referencing a DCR.
31	Section A3, paragraph 1	The use of the terms "neither" and "nor" are used for a comparison of two objects. Now that other CFR citations have been added, The "neither", "nor" phraseology does not work properly.

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32	Section A3, I34 Title	The DCR has format requirements for COLAs referencing that rule. See comments 28 and 30. These statements are not true to COLAs referencing a DCR.
33	Section A4, general	Are these statements applicable to COL FSARs? This section should address differences, both historical and regulatory, between plants licensed under Part 50 and Part 52.
34	Section A4.1, paragraph 1 and in general	The text states that "More recent FSARs grew to be 20 to 30+ volumes and may include more detail in certain respects than was absolutely necessary to support NRC safety and licensing reviews." This statement does not ring true for COLs in that the COLs were only recently issued and it should be understood that the information in the FSAR was considered necessary for the NRC to make its safety findings. There is much discussion of removing information from the UFSAR that is seen as "excessive", but this appears to be based on history for the operating fleet and NEI does not present a justification for applying this history to Part 52 plants. For Part 52 plants, the Commission gave direction on the level of detail in the SRM on SECY-90-377. As subsequent SECY papers show, this was an area of particular focus for the first DC reviews, and the staff and applicants have occasionally had to resolve disagreements on level of detail. Also, COL FSARs were approved by the staff for a particular plant, while DCDs have been approved by Commission in a rulemaking, and the regulation requires that the DCD be incorporated by reference. Given the lack of evidence that the Commission expected COL applicants to revisit the level of detail issue for approved DCDs, the discussion should clarify its relevance to Part 52 licensed plants.
35	Section A4.3, "Incorporation By Reference" 2nd bullet point (page 7)	Should this paragraph also reference "Section X of the applicable design certification rule" since it is talking about record requirements?

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36	Section A4.3, "Incorporation By Reference" 2nd paragraph (after first set of bullet points, page 7)	Should this bullet point also reference "Section VIII of the applicable design certification rule" since it is talking about change processes?
37	Section A4.3, bullet point 2 and following paragraph	Should NEI also reference 10 CFR 52.63?
38	Section A6, paragraph 2	Departure reports are required periodically from the moment a COLA is submitted until the Commission makes its finding as required by 10 CFR Part 52.103(g). Similar to comment # 8, consider including a special subsection on COL updating prior to 10 CFR 52.103(g) finding.