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March 20, 2017

MEMORANDUM TO: Kevin Hsueh, Chief
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Division of Policy and Rulemaking
Office of Nuclear Reactor Regulation

FROM: Joseph J. Holonich, Senior Project Manager /RA/
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SUBJECT: SUMMARY OF DECEMBER 14, 2016, MEETING TO DISCUSS
DRAFT APPENDIX D OF NEI 96-07, "SUPPLEMENTAL GUIDANCE
FOR APPLICATION OF 10 CFR 50.59 TO DIGITAL MODIFICATIONS"

On December 14, 2016, U.S. Nuclear Regulatory Commission (NRC) staff met with representatives from the Nuclear Energy Institute (NEI). The purpose of the meeting was to continue discussions of topics and issues related to Draft Appendix D of NEI 96-07, "Supplemental Guidance for Application of 10 CFR [Title 10 of the *Code of Federal Regulations*] 50.59 to Digital Modifications" (Agencywide Documents Access and Management System (ADAMS) Accession No. ML16126A197) Information related to the meeting can be found in the ADAMS package accession number ML16308A327.

The initial agenda was a presentation and discussion on the NEI binning of NRC staff comments. The comments were originally provided in support of previous public meetings related to NEI 96-07, Appendix D, held on June 15 and September 21, 2016. As outlined in NEI's presentation, NEI identified four bins for classifying the NRC comments. A copy of the NEI presentation can be found in the ADAMS package cited earlier.

With respect to the Blue Bin of comments, it was agreed that these comments would be included on the agenda of a future meeting to discuss in detail. This was an action from this meeting.

A second action was for the NRC staff to inform the commercial grade dedication team about the need for clarification as it relates to the 10 CFR 50.59, "Changes, Tests, and Experiments," and electromagnetic/radiofrequency interference (EMI/RFI). This was also a comment in the Blue Bin.

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During the NRC staff presentation “CCF [common cause failure], Design Attributes, & Graded Approach: under 50.59,” a discussion focused on where CCF was defined. The NEI representatives stated that it was not defined in NEI 96-07, Appendix D but was in NEI 16-16 (formerly NEI 16-xx), “Methodology for Addressing CCF for Digital I&C [Instrumentation and Control] Systems.”

Further, the NEI representatives stated that CCF was sometimes a licensing-basis issue and sometimes it was not depending on the plant design. A particular plant’s licensing basis could tolerate a CCF (i.e., the CCF would not create a new malfunction result) while another plant’s licensing basis may not. The representatives also stated that it will go back and see how the presentation’s points are considered within NEI 16-16.

A point emphasized by the NEI representatives was the need to determine if a definition of CCF was needed before completing NEI 96-07, Appendix D. If the NRC staff believed a definition of CCF was needed before completing NEI 96-07, Appendix D, then that would result in a delay of the review. The NRC staff responded that it did not want to wait for a CCF definition before completing Appendix D. It was agreed that interim conditions for CCF could be developed that would be removed once CCF was more clearly defined.

Another area of detailed interaction on the NRC staff presentation was the inclusion of structures, systems, and components (SSCs) on slide 7. The NEI representatives expressed concerns that SSCs were not part of the evaluation process for 10 CFR 50.59. Slide 7 focused on exploring means to eliminate software CCF from further consideration beyond the design phase for a digital instrumentation & control (I&C) modification, within the confines of the Appendix D.

The NRC staff stated that the proposed words in slide 7 were one style of words to consider and that they do not need to be used verbatim in order to function as a placeholder/pointer to current and/or future NRC-endorsed guidance in lieu of the use of terms such as “CCF Unlikely” and “Sufficiently Low.” This would essentially serve as interim language until technical work is completed. Based on the NRC staff’s position, the NEI representatives stated that the information on slide 7 provided a good start for determining where things need to head.

The afternoon of the meeting was spent mostly reviewing the NRC staff comments on the screening text in Section 4.2 of NEI 96-07, Appendix D. The NRC staff stated that the proposed wording it was presenting was recommendations and that the NRC staff was open to suggestions of alternate wording. The NEI representatives commented that there was concern that NRC staff had taken some words out of context from NEI 01-01, “Guideline on Licensing Digital Upgrades: EPRI TR [Technical Report]-102348, Revision 1, NEI 01-01: A Revision of EPRI TR-102348 to Reflect Changes to the 10 CFR 50.59 Rule” (ADAMS Accession No. ML020860169).

The NEI representatives continued by indicating they were worried that the NRC staff comments were written as absolute. Because of that NEI stated that it needed to better understand what the basis was for the NRC comments. With that better understanding, the representatives said they could consider the comments in context. The NRC staff later provided assurance that staff comments were intended as a starting point for further conversation and not intended as

absolute. In addition, the NRC staff agreed to review its comments and provide a revision before the meeting scheduled on January 11, 2017, if necessary.

Next the meeting focused on the path forward. It was agreed that based on the discussions at the meeting, NEI would provide a revised screening section of Appendix D before December 25, 2016, and a revised evaluation section by the middle of January 2017. The NRC staff suggested utilizing direct comment sessions with NEI at its headquarters for Appendix D evaluation section to facilitate faster document composition. NEI declined the staff's suggestion citing a preference to provide NRC staff a revised evaluation section and support NRC staff engagement with this section during the public meeting on February 8, 2017.

It was also agreed that more focused interactions might be needed to address the topics discussed at the meeting. Such interactions could be held via conference call and through GoToMeeting. If these interactions were held, they would be publically noticed but because of the quick scheduling of these, they may not all meet the ten-day noticing goal.

The final topic covered in the meeting was a status review of the open items from other meetings. It was agreed that the following open items were closed: 20, 22a, 29, 33, 35, 37, and 38. The open item list discussed at the meeting is provided in the ADAMS meeting package.

Actions from the meeting were:

- 1) The NRC staff and NEI will determine when to discuss Blue Bin comments at a future meeting.
- 2) The NRC staff will make the NRC commercial grade dedication team aware of the discussion on the Blue Bin comments on EMI/RFI and 10 CFR 50.59.
- 3) The NRC staff will relook at its comments on NEI 96-07, Appendix D, and provide a revision before the meeting on January 11, 2017.
- 4) NEI will provide a revised screening section of Appendix D before December 25, 2016
- 5) The NRC staff will provide NEI comments on the April 2016 version of Appendix D, evaluation section before December 25, 2016.
- 6) NEI to provide binned comments to NRC staff regarding the evaluation section of Appendix D by January 20, 2017.
- 7) NEI will provide revised evaluation section of Appendix D by January 20, 2017.
- 8) NEI will be prepared to discuss revised screening section for the public meeting on January 11, 2017.
- 9) NEI will be prepared to discuss revised evaluation section of Appendix D for the February 8, 2017, public meeting.
- 10) NEI to remove the term "reliability" from the screening section of NEI 96-07 Appendix D.

SUBJECT: SUMMARY OF DECEMBER 14, 2016, MEETING TO DISCUSS DRAFT APPENDIX D OF NEI 96-07, "SUPPLEMENTAL GUIDANCE FOR APPLICATION OF 10 CFR 50.59 TO DIGITAL MODIFICATIONS" DATED: March 20, 2017

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ADAMS Accession Nos.: Package (ML16308A327); Summary (ML16312A356); *concurred via email

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