



PUBLIC MEETING

on NEI letter entitled “Avoiding Delays in Issuance of NRC
Combined Licenses due to Design Certification Errors”

**Division of New Reactor Licensing
Office of New Reactors**

December 13, 2017

10:30-12:30 pm

TWFN-08E08



NEI letter entitled “Avoiding Delays in Issuance of NRC Combined Licenses due to Design Certification Errors”

Public Meeting – Category 2 **[public meeting notice](#)**

PURPOSE: The purpose of the meeting is to discuss the Nuclear Energy Institute’s letter on “Avoiding Delays in Issuance of NRC Combined Licenses due to Design Certification Errors”, received 8/14/17, ([ML17236A489](#))

Join the conference call:

Bridge No: 800-369-3373

Passcode: 60213

Barbara Hayes; Barbara.Hayes@nrc.gov ; 301-415-7442



AGENDA

<u>Time</u>	<u>Topic</u>	<u>Speaker</u>
10:30 a.m.	Opening and Introductions	NRC
10:40 a.m.	NEI opening remarks	NEI
10:50 a.m.	NRC questions on NEI's letter and discussion	NRC & NEI
11:50 a.m.	Review and Next Steps	NRC & NEI
12:00 p.m.	Comments or questions from the public	NRC
12:10 p.m.	Adjourn	

Background - History

- *January 2015: Duke Energy Florida originally raised concerns about COL issuance delays related to several errors detected in the AP1000 design related to control room dose calculations and the condensate return system. They requested that NRC issue COLs without correction of the DC Errors.*
- *April 2015: NRC responded that under AEA as amended, it cannot issue a COL if an error undermines the DC safety finding, unless the error is addressed so that the safety finding can be made.*
- *September 2015: NEI suggested a license condition could allow a COL to be issued and provided an example for control room dose.*
- *July 2016: NRC responded that a license condition or other mechanism (such as ITAAC or DAC) may be possible but legal and regulatory requirements must be met and suggested early engagement with the applicant. The letter suggested a public meeting and suggests NEI provide specific examples of license conditions or other mechanisms.*
- *August 2017: NEI's most recent letter presents several new viewpoints on development of a generic approach.*



Background – NEI Requests

NEI's August 4, 2017 letter requests:

- Page 2: “....staff consider these options for addressing the issue and engage the industry on a recommended regulatory path forward.
- Page 7: “...staff promptly consider the industry options proposed and determine which of these (or other) alternatives best provides a workable generic approach to resolve this issue”.



Background – NEI Suggestions

NRC understands NEI options as follows:

Page 3: Issuance of a License Condition: The NEI letter notes the Commission’s “ministerial act” standard for License Conditions, but states that a License Condition that defers resolution of the issue to a later license amendment or rulemaking satisfies this test. The letter also states that the “ministerial act” standard is a matter of policy and that the Commission can change this standard as long as “hearing rights are preserved”.

Page 4: Use of ITAAC: The NEI letter states that existing or new ITAAC could be used to resolve many, if not all, DCD design errors at the COL stage and that DAC are unnecessary for this purpose.

Page 5: Use of a Hybrid COL and CP: The NEI letter states that a hybrid approach could be used such that a COL is issued for portions of the plant unaffected by the DCD error combined with a CP for those portions affected by the error. NEI further states that the NRC “may be able to implement” a hybrid approach under existing regulations but recommends rulemaking to address certain procedural issues.

Does this adequately capture NEI’s intent?



NRC Staff Question on License Condition Option

- In the *Hydro Resources* decision (CLI-00-08, 51 NRC 227), the Commission rejected a proposal to defer the resolution of issues material to licensing to a later license amendment proceeding.
- The Commission was concerned both with hearing rights and the NRC staff making the required safety findings.
- AEA § 185b. and 10 CFR 52.97 require a final safety finding before COL issuance.
- The “ministerial act” standard functions to require the resolution of issues material to licensing before the license is issued, while allowing post-license verifications that are ministerial.
- Do you have an example of an instance where a license condition required a safety evaluation to be closed?



NRC Staff Questions on ITAAC Option

- Based on several examples from recent experience (e.g., AP1000 errors that were corrected prior to COL issuance for Levy/Lee), please:
 - Identify what ITAAC would be used to govern correction of the errors.
 - Identify what Tier 2 changes/additions would be needed to support performance of the ITAAC.
- Please further explain why DAC would not be needed.
- The NRC has taken positions on what matters are within the scope of ITAAC and which are not. How would you write an ITAAC to fix a design error, given that ITAAC do not include engineering evaluations?



NRC Staff Questions on Hybrid COL/CP Option (1 of 2)

- To issue a COL, AEA 185b. and 10 CFR 52.97 require a final safety finding on the “facility.” 10 CFR 52.79(a) requires “a safety analysis of the [SSCs] of the facility as a whole” that supports a final conclusion on all safety matters. How would issuing a partial COL for a partial facility be consistent with the AEA and NRC regulations?
- What does NEI envision as the process for “converting a COLA into an application for a hybrid COL and CP”? Would a separate CP application (with a PSAR) be required? Would this generate new hearing rights under the AEA and NRC regulations? If so, what would be the nature of those hearing rights? How would the mandatory hearing work?



NRC Staff Questions on Hybrid COL/CP Option (2 of 2)

- What does NEI envision when it refers to “the separate treatment of COL and CP issues during construction”?
- What does NEI envision with “the process for issuance of the OL and its combination into the COL through a COL amendment”? How would the different hearing provisions for ITAAC closure and the OL application work? Would the ultimate license be a COL under AEA 185b. or an OL under AEA 185a.?



NRC's General Questions on NEI Proposals

In its 2016 letter to NEI, the NRC staff stated that “[A]pplicants should apply a relatively high threshold when considering the use of approaches other than the established departure and rulemaking processes to avoid unnecessary delay in completing the license application review.”

- What threshold does NEI think appropriate?
- Does NEI think the stage of the COL review would impact the threshold or which alternative approaches could be used?
- Does NEI think that the safety significance and complexity would be a factor?



THANK YOU!

NEI letter entitled “Avoiding Delays in Issuance of NRC Combined Licenses due to Design Certification Errors”

Public Meeting December 13, 2017



Additional Reference Information – Detailed Correspondence

- Christopher Fallon of Duke Energy wrote to Margaret Doane, Esq. of NRC on 1/27/2015 ([ML15050A142](#))
- Glenn Tracy of NRC responded to Christopher Fallon of Duke Energy Florida on 4/15/2015 ([ML15083A218](#))
- Douglas Walters of NEI wrote to Glenn Tracy of NRC on 9/30/2015 ([ML15279A407](#))
- Jennifer Uhle of NRC responded to Mr. Pietrangelo of NEI on July 18, 2016 ([ML15351A021](#))
- Michael Tschiltz of NEI wrote to Vonna Ordaz of NRC on 8/4/17 responding to Jennifer Uhle's letter ([ML17236A489](#))
- Frank Akstulewicz of NRC responded on 10/31/17 suggesting a public meeting ([ML17291A793](#))