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NUCLEAR ENERGY INSTITUTE

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Mr. Eric M. Thomas
Senior Reactor Systems Engineer, Operating Experience Branch
Division of Inspection and Regional Support
Office Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Industry Response to Questions Discussed at the November 1, 2018, Public Meeting Associated with Licensee Performance Assessments - ML18317A380

Project Number: 689

Dear Mr. Thomas:

The Nuclear Energy Institute (NEI),[1] on behalf its members (hereinafter referred to as industry), appreciates the opportunity to provide input to questions generated by U.S. Nuclear Regulatory Commission (NRC) staff in response to Draft NEI 18-07, "Licensee Performance Assessments – Methodology for Licensee Identification of Latent Design Issues," including the discussion at the public meeting on November 1, 2018. The meeting was an important forum for NEI and industry members to discuss with NRC staff their observations and questions concerning the implementation of the Licensee Performance Assessments (LPA). The information presented during the public meeting was intended to support the staff's evaluation of NEI 18-07.

The staff's observations and questions were categorized in five topics of interest: Independence, Openness, Efficiency, Clarity and Reliability. NEI, along with industry members, presented responses to each of these questions during the public meeting. As a follow-up to the conversation during the meeting, this letter and attachment document the information provided to the staff.

[1] The Nuclear Energy Institute (NEI) is responsible for establishing unified policy on behalf of its members relating to matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect and engineering firms, fuel cycle facilities, nuclear materials licensees, and other organizations involved in the nuclear energy industry.

If you have questions or need additional information, please contact me at (202) 739-8086 or mns@nei.org.

Sincerely,

Maggie N. Staiger

Attachment

c: Robert B. Elliott, NRR/DIRS/OEB, NRC

Attachment 1
Summary of Answers Provided During the Public Meeting on November 1, 2018

The questions cited below were those provided by the NRC prior to the meeting to help focus the discussion and to better understand how the industry proposal in NEI 18-07 can be interpreted in view of the NRC's Principles of Good Regulation: Independence, Openness, Efficiency, Clarity and Reliability. The responses provided reflect the discussion during the meeting and peer team involvement.

1. "Regarding the principle of Independence, the proposal describes that independence is accomplished through challenge boards, team makeup and NRC observations. NRC observations of LPA team activities, as described in NEI 18-07, do not include any feedback to the LPA team on the independence or experience of the team members, scope or depth of the LPAP, or the adequacy of the LPA outcomes."

   Question: "How does NEI 18-07 ensure that the NRC maintains sufficient independence in accepting assessment outcomes if the NRC role is limited only to observation?"

   Industry: NEI 18-07 does not restrict in any way the activities of the NRC. The NRC may perform confirmatory checks as well as inspection, when warranted. Industry is concerned that the NRC may expend inspection-related resources in parallel with the LPA, reducing the value-added proposition of crediting self-assessment in the ROP. The acceptance of the LPA outcomes is premised on the fact that the Licensee is qualified to perform a self-assessment. NEI 18-07 lists the enabling conditions for LPA credit. These are laid out in the first paragraph of the purpose statement. Specifically, Licensees in Column 1 are eligible, as well as Column 2 plants if the concern that moved them to Column 2 is not of the subject matter being assessed. Column 3 and 4 plants are not permitted to obtain credit, although they can use the LPA procedure to perform a self-assessment for their own benefit. In summary, NRC acceptance of the LPA for credit should be: 1) the licensee meets the enabling criteria, and 2) the process was adequately completed. Response to the results is a separate activity by the NRC.

2. "Regarding the principle of Independence, NEI 18-07 states that the LPA Manager is an individual who manages or has authority of the program area being assessed and that one of the core team members is the subject matter expert, and likely the program owner, at the site being assessed."

   Question: "How does NEI 18-07 assure that an independent assessment has been conducted if the SME is assessing his or her own work and the LPA team is managed by the licensee official in charge of the program being assessed?"

   Industry: NEI 18-07 is intended to be a self-assessment process. By definition, a self-assessment is not independent of the licensee staff owning the subject area. The key is to build in objectivity to ensure that no bias will cause an issue to be overlooked. In order to build in objectivity, NEI 18-07 has several barriers or layers of checks and balances to ensure bias is held to a reasonable level. The barriers include having a knowledgeable independent team member, a written plan approved by the manager and executive sponsor, sharing the plan with the NRC prior to the assessment process

commencing, daily briefings of management, daily assessment of condition reports by management screenings, and finally, a challenge board. In our discussions at the November 1, 2018, public meeting, two additional assurances came to light, one in the make-up of the challenge board, and a second in the selection of samples. As written, the LPA Manager chairs the board. NEI 18-07 will be revised to make the Challenge Board Chair an independent member of the management team. This will make the LPA Manager a presenter at the Challenge Board rather than the chair. The samples (program elements) chosen for the LPA presently are chosen based on the process in the associated NRC inspection procedure for the area being assessed. NEI 18-07 provides an LPA Plan Template (Attachment 1) which provides guidance for the completion of the LPA. NEI 18-07 will be clarified for the pilot to ensure the NRC provides a split sample selection and that half of the program elements will be chosen by the NRC independent of the LPA Team.

3. "Regarding the principle of Independence, the NRC will develop criteria by which it can consistently evaluate the quality of an LPA."

   Question: "What criteria should be used by NRC in accepting the LPA such that a licensee receives credit for the associated FEI?"

   Industry: See answer for Q1.

4. "Regarding the principle of Openness, and given the level of detail proposed by NEI 18-07 for the final report:"

   Question: "How will the industry communicate the scope of the LPAP in a way that is visible to the public?"

   "Also, given that NEI 18-07 considers the NRC Inspection Procedures only as guidance in developing LPAPs:"

   Question: "How does the proposed process assure that the LPAP is of sufficient depth and rigor to satisfy the intent of the FEI it is intended to replace, and how will this be documented in a way that is visible to the public?"

   Industry: The involvement of the public in the LPA process will be of the same level of detail and frequency as the inspection process. The licensee will provide a summary report of the LPA. There will be no involvement before or during the LPA. However, the documentation of the final report will be of the same level of detail the NRC includes in their inspection process.[2] As discussed at the November 1, 2018, public meeting, the LPA report will not be docketed. The key elements of the detailed LPA report will be summarized and provided to the NRC for their use as appropriate.

   The scope and depth of the LPA is driven by the templates contained in NEI 18-07. In addition to these, the process requires review of the LPA template as appropriate to ensure the LPA is properly

[2] NEI 18-07 Draft 0, Page 7, Section 9, Item 5

scoped in order to receive credit.[3]

5. "Regarding the principle of Openness, the proposed guidance in NEI 18-07 discusses that openness is provided by delivering a copy of the report to the NRC and allowing the NRC to observe LPA activities. However, the NRC's principle of openness expects that nuclear regulation be conducted publicly."

   Question: "How does the industry propose to make LPA activities publicly accessible to the same extent offered under NRC's Reactor Oversight Process? Will LPA final reports be docketed such that they can be viewed by members of the public?"

   Industry: See answer to Q4. In addition, it is expected the NRC would treat any documents used and generated in the assessment as the NRC would inspection documents.

6. "Regarding the principle of Openness, NEI 18-07 proposes to maintain a list of the documents reviewed, but there is no indication that this list will be included in the final report. This is contrary to the documentation expectation in NRC Inspection Manual Chapter 0611."

   Question: "How will the principle of openness be supported without public access to the list of documents reviewed?"

   Industry: In considering this question, a gap was discovered in Attachment 3, "Report Writing Template." The template did not call for the list of documents reviewed to be documented. The requirement to document the list of documents reviewed will be added to the next revision.

7. "Regarding the principle of Openness, NEI 18-07 discusses that the licensee will conduct a 'final briefing to the NRC.'"

   Question: "Please describe the intent of this briefing, including with whom the briefing would occur and whether or not there may be benefit to conducting some of the initial briefings as public meetings."

   Industry: The final briefing was intended to fulfill the same intention as the NRC exit meeting. This briefing is an opportunity for the NRC to hear the final conclusions of the LPA. The intent of the briefing is to also allow the NRC to provide feedback within the guidance of the LPA. The brief will clarify the findings of the LPA and allow additional discussion as needed. Since the public is not included in exit meetings for routine inspections, there is no plan to have public meetings to discuss the LPA.

8. "Regarding the principle of Openness, the proposed guidance does not discuss screening the identified issues for safety significance or per the NRC Enforcement Policy. To meet the documentation standard of Manual Chapter 0611, licensee-identified violations must be screened using the guidance in Inspection Manual 0612, including determination of safety significance. The

[3] NEI 18-07 Draft 0, Page 4, Section 5, Items 2 & 3, AND Page A1-2, Section II, Footnote 3

proposed LPA report template includes only a list of issues identified and the condition reports which will be used to track corrective action."

Question: "How does the industry plan to document these screening results of identified issues, such that the NRC and the public can understand whether any of the identified issues may warrant NRC enforcement action?"

Industry: The screening of issues is already an established practice at all plant sites. The process is contained in the corrective action program (CAP) process. It is intended that the screenings continue as a matter of routine as the findings and issues of the LPA will be entered into CAP. The NRC currently has full access to the CAP, therefore, this is not a change from current practices.

9. "Several elements of the proposal discuss new duties for the NRC Resident Inspector, including coordinating schedules for planned LPAs versus engineering inspections, receiving the LPAP for planning NRC engagement, coordinating NRC observations of challenge boards and other LPA activities, and receiving the final approved LPA. Engineering inspection activities are the responsibility of regional inspectors from the Division of Reactor Safety's Engineering Branch (DRS/EB)."

   Question: "Can the industry explain the rationale for choosing the NRC Resident Inspector as the point of engagement for LPA activities, versus the DRS/EB staff who are normally responsible for these inspections?"

   Industry: It was not intended for the LPA process to limit the communication only with the resident inspector. NEI 18-07 specifies the resident as the primary contact, due to the resident's accessibility, familiarity with the Licensee's CAP and the practice of the resident observing site activities. In the next revision, expected to be issued in February 2019, the language will be modified to emphasize the communication will not be limited to only the resident inspector.

10. "Regarding the principle of Openness, NRC inspectors assigned to observe LPA activities should be provided ample time to arrange their schedules such that they can be on site when required. NEI 18-07 does not provide detail on how LPA activities will be coordinated and scheduled to ensure the proper NRC staff will be available to support."

    Question: "Can industry explain how the schedules for LPA activities will be communicated such that NRC observers have time to arrange their schedules to support the activities? In addition, has industry considered factors, such as the length of the assessment and availability of the LPA Team, such that NRC observers can optimize their time onsite?"

    Industry: The process of scheduling has not been addressed in NEI 18-07. This process needs to be agreed upon by the industry and NRC. Existing processes for scheduling should be considered and timing should be sufficient for scheduling of resources, both by the NRC and Licensee. It is suggested that a future meeting element be focused on NRC suggestions given the present practice of scheduling inspections.

11. "NEI 18-07 describes that one benefit of LPA activities is knowledge transfer for newly assigned engineers."

    Question: "How will the industry ensure that the objective of knowledge transfer is balanced with providing the proper depth of review consistent with an NRC-performed FEI? Does the industry propose to establish minimum technical or experience standards for LPA Team Members?"

    Industry: The subject matter expert of the area being assessed is a primary member of the team. Reviewing documents, both contemporary and historical, and being challenged by members of management, an independent knowledgeable team member, and the Challenge Board will provide for a grueling exercise of knowledge transfer. Additionally, LPA team members with less experience provide a fresh look with the potential to question what more seasoned personnel may accept as a given basis, thereby adding balance to the team. Further, the licensee must be responsible for ensuring the team make-up is adequate. Hence, the executive sponsor must approve the team members during the LPA plan review and approval.

12. "NEI 18-07 describes that 'the timeframe for data relevance is three years.'"

    Question: "Does this infer that only activities conducted within the preceding three years will be reviewed? Will LPA teams be excluded from reviewing documents that are more than three years old to determine the acceptability of current operation? Please clarify the intent and potential application of this standard and whether it would be more appropriate to utilize NRC Inspection Procedures being addressed by the LPAs for guidance on relevant timeframes."

    Industry: The three year period was meant as a starting point for contemporary plant performance and document collection. Shorter or longer timeframes could be used if justified.[4] It was not intended to be a boundary condition for cutting off an inquisitive pathway to an older document such as original design basis reviews. This clarification will be made in the next revision, expected to be issued in February 2019.

13. "NEI 18-07 describes the Challenge Board as an important activity in reviewing the results of the LPA. The NRC's experience is that the quality of activities, such as challenge boards, are highly dependent on the experience level of the participants. The proposal contains no discussion about Challenge Board constitution (minimum membership, experience level of participants, independence, etc.), although Attachment 4 infers that a quorum must be met."

    Question: "What standards does the industry plan to propose for conduct of the Challenge Board?"

    Industry: Attachment 4, "LPA Challenge Board Template," contains the quorum requirements for the challenge board. It is deliberate in the titles of individuals required to attend. As mentioned in the response to Question 2, the Challenge Board Quorum will be revised to require an independent member of management.

[4] NEI 18-07 Draft 0, Page 5, Section 6, Item 3

14. "NEI 18-07 is silent on potential enforcement actions for performance deficiencies identified during LPAs."

    Question: "Is it to be assumed that the NRC would view all performance deficiencies identified during LPAs as licensee-identified? If so, how does the industry propose to update other aspects of the ROP that are informed by documented inspection findings, such as the threshold for cross-cutting themes?"

    Industry: It is expected that all the findings of an LPA will be licensee-identified. In the present construct of the ROP, these categories of findings do not get assigned a cross-cutting aspect. Further, the Licensee's CAP will control the disposition of the issues. Hence, the NRC is not restricted in any way from routinely monitoring CAP and responding as normal.

15. "The LPA, as described in NEI 18-07, is used to gain confidence that the implementation of engineering programs at the site does not result in the introduction of latent conditions that could prevent proper operation of SSCs."

    Question: "Shouldn't the LPAs also identify any latent conditions, regardless of how they came to be present? For example, shouldn't LPAs also be inclusive enough to identify older design issues or maintenance-induced problems?"

    Industry: The answer to this is presented as the necessary questioning attitude of the LPA team. Existing latent conditions need to be recognized, characterized and entered into the CAP. This will be an integral part of the Computer Based Training (CBT) training for the team leader so that the LPA Manager can coach the LPA team during the process. It is expected that as a routine, concerns or inconsistencies are evaluated completely and, if necessary, additional resources are pulled in to complete the evaluation.

16. "NEI 18-07 discusses team selection on the basis of members' knowledge and familiarity with the area being assessed. The document mentions computer-based training (CBT) as a requirement for the team leader, but it does not indicate any formal training requirements for other team members."

    Question: "Can industry explain how they will ensure the LPA Team is adequately trained to identify regulatory non-compliances at similar thresholds to those applied by NRC inspectors?"

    Industry: The LPA Team Leader CBT will focus on applying the regulations. In addition, as part of the assessment, the controlling program document is compared and assessed against the base regulatory requirement. Starting with this assessment, the remaining activities will be based on the regulatory compliant document.[5] Additionally, the program owner, typically the subject matter expert, is expected to be conversant and knowledgeable in the base regulatory requirements for the program. These attributes ensure that regulatory non-compliances will be identified and documented.

[5] NEI 18-07 Draft 0, Page A2-2, under Checklist Item Program Document