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Ms. Andrea Kock
Director, Division of Fuel Management
Office of Nuclear Materials Safety
and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Industry Comments on Near Final Fuel Cycle Smarter Program Working Group Reports Post March 5, 2020 NRC Public Meeting

Project Number: 689

Dear Ms. Kock:

The Nuclear Energy Institute (NEI)¹, on behalf of its members, provides the following comments on the U.S. Nuclear Regulatory Commission's (NRC) fuel cycle Smarter Program initiative and specific feedback on the March 5, 2020 NRC public meeting on the related near final Working Group reports.

Public Meetings and the Process

First and foremost, it is important to acknowledge the transparency, openness, and dedication that NRC applied to this unprecedented fuel cycle Smarter Program initiative over an approximate one year period. As you know, the initiative was launched in March 2019 with issuance of the draft Working Group charters followed by 9 productive public meetings culminating with the March 2020 meeting. Its primary purpose was to conduct a holistic, historical review of the licensing and inspection programs to identify areas ripe for increased efficiency and effectiveness based on supporting data, information, experience and insights. Industry has been fully engaged in and supportive of this initiative from its beginning. In fact, based on inspection data, experience and risk insights, we submitted the first mark-up of Inspection Manual Chapter 2600, Appendix B, Table 1 in June 2019 to demonstrate why and how NRC might modify the inspection program's scope and priorities. This proposal informed several public discussions during which NRC provided its options and industry provided a second proposal in October 2019. All time well spent from our

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.

perspective. For the record, these productive public meetings were appropriately noticed; potential program proposals were transparent and included in the meeting summaries; the staff was open-minded to well-constructed industry proposals; and both industry and NRC evolved their approach based on our respective inputs. In sum, we believe this process displayed important attributes to be considered in future program initiatives. Further, NRC programs such as this one should be periodically re-evaluated to ensure that our respective resources are focused on the most safety-significant licensed activities.

Near Final Working Group Reports

In general, we found the near final Licensing and Inspection Working Group reports to be comprehensive, clear and representative of the scope, process, and outgrowth of the deliberations and considerations. To that end, the Licensing Program's "comment-resolution" table capturing the 37 recommendations or observations provided a complete and transparent record of how each item was considered and dispositioned by NRC staff. The Inspection Working Group report would have benefited from including an analogous comment-resolution table to increase transparency of how certain stakeholder comments were dispositioned. For completeness, a short summary of the submitted industry proposals would also have been appropriate. In most cases, the information is contained in the report; however, insights can be gained for both NRC and stakeholders when comments are compiled, sometimes compared and the resolution documented.

Industry's Top 5 Licensing Priorities

We wanted to highlight the January 24, 2020 Fuel Management Division Director (DFM) memorandum to Division staff titled "Licensing Process Expectations." Many of the themes reflected in this memo are appropriately captured in the draft licensing report; such consistency in message not only reinforces DFM priorities, but provides better predictability to licensees. During the meeting, NRC expressed an interest in hearing industry's perspective on which 5 licensing items should be its highest priority in the near term. After careful consideration, we suggest the following in this order:

1. *Requests for Additional Information Process & Documentation* – several recommendations are related to this topic and should be a high priority (#8, 9a, 9b, 11, 12 and related continuity items #13a, 13b)
2. *Meeting with the licensee or applicant, routinely communicating and conducting site visits* during the license application, major amendment or renewal process (#4, 7a, 7b, 27, 29)
3. *Establishing licensing milestone metrics and routine communication with licensee/applicant* on status and possible efficiencies (#1-3, 5, 6a)
4. *Risk-informed decision-making* to, in part, incorporate inspector insights into licensing process, incorporate the concepts of NRR's LIC-206, etc. (#15, 25a, 30)
5. *Transparency of internal licensing guidance* by making enhanced guidance publicly available, creating an automated tracking tool for licensing actions, and using an electronic interface with the licensee/applicant (#16, 17, 22).

Follow Up Areas

During the meeting, it was agreed by NRC and industry representatives, that the periodic Cumulative Effects of Regulation (CER) public meetings provide an appropriate opportunity for NRC to provide updates on its effort to implement the final WG report recommendations and milestones associated with them. The CER meetings should also include an opportunity for stakeholder input on these efforts. We look forward to the upcoming CER public meeting on April 22, 2020.

While we agree that NRC should move forward with implementing the final management-approved WG recommendations, we also suggested that there is a need for continued public discussion in 2020 on certain unresolved topic areas discussed in the earlier public meetings. They are:

- 1. *Chemical Safety:*** NRC staff ranked Chemical Safety as a Tier 1 or highest priority item along with Criticality and stated its intent to develop additional inspection guidance and increase its effort (e.g., inspection hours?) in this area (WG report page 3,4; meeting slide 10). While we acknowledge the importance of a robust chemical safety program, the safety basis for an increased regulatory focus and effort across the entire fleet is unclear to industry. The Chemical Safety risk profile is one of the most diverse profiles across the fleet and should be recognized as such. In addition, this increased emphasis is not consistent with staff's conclusion in SECY-19-0050, "NRC's Annual Report on Licensee Performance for CY2018." Specifically, "...given the analysis of data and the low safety significance of reported events in CY2018, the staff did not identify the need for any additional changes to the fuel cycle inspection or licensing programs." Further, Figure 1 of the Inspection WG near final report appears to be based on the SECY data, includes chemical safety events in the Operational Safety category and somehow the staff concludes that it needs additional regulatory focus even though the number of Op Safety events dropped from 4 to 0 to 3 (2013-2018). Staff also stated during the meeting that they do not possess specific chemical safety data but based their conclusion on NRC's non-public Operational Event database and the facility-specific Integrated Safety Analysis (ISA). This staff conclusion lacks a credible basis and is not transparent.
- 2. *Credit for Increased Safety Margin:*** Industry suggested that fuel facilities receive "credit" (e.g., reduced inspection hours) in program areas where the facility has built in additional safety margin that goes beyond NRC requirements, presenting a "decreased risk profile." We believe the NRC staff can further leverage the ISA for additional risk-insights and encourage further industry engagement to develop methods to risk inform the inspection process. Without this recognition, there is built in disincentive to maintain above and beyond risk mitigation.
- 3. *Credit for NRC-Approved Corrective Action Programs (CAP) at Category I and III Fuel Facilities:*** Industry suggested that it would be helpful for a future "business case" analysis, if NRC were to add a column on its revised IMC 2600, Appendix B table (meeting slide 17) for reduced inspection hours at a Category I and III facility with an NRC-approved CAP.
- 4. *Resident Inspector Utilization:*** We fully support the WG recommendation (report page 5) to conduct an "in-depth assessment of the scope of resident inspector guidance and its referenced procedures as part of the implementation phase of this initiative." We also add that NRC should re-

evaluate its generic maximum of 1500 hours per full-time equivalent for its staff. This level of effort is not representative of modern-day organizational staffing goals and expectations.

5. ***Current Exclusion of Specific Program Areas:*** Industry suggested that NRC re-visit the current exclusion of the physical protection, classified material and information security program areas from this holistic review as efficiencies might be identified.
6. ***Frequency Reduction for Tier 1 Program Areas:*** Meeting slide 11 states that NRC reduced the inspection frequency for Tier 2 and 3 areas for facilities with an NRC-approved CAP. It is unclear to industry why NRC is not considering a frequency reduction for Tier 1 program areas for such facilities. The CAPs are comprehensive and have built in sensitivities to “safety significance” assuring increased attention, timeliness and assurance of mitigation of future events is considered for all areas. Negating the Tier 1 areas further presents a disincentive to the business case for CAPs to be maintained.
7. ***Preparation for and Documentation of Inspections (Prep and Doc):*** We continue to suggest that NRC identify and implement further efficiencies in the “prep and doc” portion of the inspection process. NRC should take full advantage of current information technology systems, letter format templates, best practices from other NRC program areas and increased management oversight to help ensure that the prep and doc time is kept to a minimum. After all, at some fuel facilities, history has shown that the direct fee billable prep and doc hours equate to 2-3x the on-site inspection hours. Therefore, if commensurate reductions are not realized for prep and doc hours, the efficiencies gained from the enhanced inspection program will be minimal and offset by the continued excessive expenditures for prep and doc. Also, NEI is aware of continued NRC requests for copious pages of licensee documents in advance of inspections that are not always utilized by the inspectors once on site, nor would it be practical to do so (based on the high volume of documents requested). This is costly from both a licensee and inspector perspective. Prep and doc practices remain ripe for improvement and we hope to engage further with NRC on this item as staff has stated prep and doc efficiencies would be a “Phase 2” activity.

In closing, we applaud NRC’s efforts to date, appreciate the continued engagement on this important initiative and the desire of Division and regional management and staff to identify ways to become a more modern, risk-informed regulator. We look forward to seeing the final Working Group reports published soon and future public engagements on this matter.

Sincerely,



Janet R. Schlueter

c: Mr. John Lubinski, NMSS/NRC
Ms. LaDonna Suggs, DFFI/RII/NRC