

February 22, 2000

FOR: The Commissioners
FROM: William D. Travers /RA/
Executive Director for Operations
SUBJECT: ACCEPTANCE OF NEI 99-04, "GUIDELINES FOR MANAGING NRC COMMITMENTS"

- **PURPOSE:**
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PURPOSE:

To inform the Commission that the staff has found the attached revision of the Nuclear Energy Institute (NEI) guidance document, "Guidelines for Managing NRC Commitments" (NEI-99-04), to be acceptable.

SUMMARY:

The staff met with NEI and utilities during the development of NEI 99-04; the meetings were open to the public. The staff finds that the document contains acceptable guidance for controlling regulatory commitments made by power reactor licensees to the NRC staff. The NEI guidance document is an update of the guidance that the staff found in 1995 to be an acceptable way for power reactor licensees to manage commitments made to the NRC staff (see SECY-95-300, "Nuclear Energy Institute's Guidance Document, 'Guideline for Managing NRC Commitments'," dated December 20, 1995). To document our acceptance of the revised industry guidance document, we will respond to the letter from NEI dated August 2, 1999. In addition, we will issue a regulatory issues summary to ensure that all power reactor licensees and other stakeholders are aware of the staff's findings and to encourage use of the NEI guidance document.

BACKGROUND:

Various activities undertaken by the staff and industry in the early 1990s culminated in the issuance of SECY-95-300. The industry document and related Commission paper contained guidance for handling licensing-basis information that was not subject to controls defined in NRC regulations. In SECY-95-300, the staff told the Commission that it planned to inform NEI that its guidance document (Revision 2, dated December 19, 1995) presented a structured process, acceptable to the staff, that licensees could use to evaluate proposed changes to commitments made to the NRC. The staff informed NEI that the subject guidance was acceptable in a letter dated January 24, 1996. The NEI guidance describes a process that licensees can use to modify or delete commitments and defines the circumstances in which interaction with the staff is appropriate. The use of this guidance was intended to reduce unnecessary interactions between licensees and the staff and to give licensees the confidence and flexibility to modify or delete commitments shown to be inefficient or ineffective. The staff also stated in SECY-95-300 that it would monitor licensees' commitment change processes, regardless of whether licensees implemented the NEI guideline or licensee-specific programs, to verify that licensees are controlling regulatory commitments.

The NRC staff evaluated licensing-basis issues at Millstone and Maine Yankee and offered lessons learned from these experiences in [SECY-97-036](#), "Millstone Lessons Learned Report, Part 2: Policy Issues," dated February 12, 1997, and [SECY-97-042](#), "Response to OIG [Office of the Inspector General] Event Inquiry 96-04S Regarding Maine Yankee," dated February 18, 1997. In [SECY-97-205](#), "Integration and Evaluation of Results From Recent Lessons-Learned Reviews," dated September 10, 1997, the staff discussed the relationships between various activities concerning the revision of licensing-basis processes, such as those defined by [10 CFR 50.59](#), "Changes, tests and experiments," and 50.71, "Maintenance of records, making of reports." The SECY papers recommended that, as part of an overall revision of its oversight of licensing-basis information, the staff should improve the internal guidance for documenting, tracking, verifying, and controlling commitments made to the NRC staff by power reactor licensees, and should continue its efforts to work with industry, as described in SECY-95-300. The associated staff requirements memoranda on the Commission papers generally instructed the staff to continue with its stated plans for improving the management of commitments made by licensees to the NRC.

In [SECY-98-224](#), "Staff and Industry Activities Pertaining to the Management of Commitments Made by Power Reactor Licensees to the NRC," dated September 28, 1998, the staff described its activities related to commitment management strategies, audits of commitment management programs at power reactor facilities, and discussions with stakeholders. In SECY-98-224, the staff also (1) discussed its rationale for maintaining regulatory commitments as an element of the licensing basis for power reactors and (2) described the expected management of regulatory commitments by licensees' administrative processes and the proposed internal guidance for the NRC staff. The audits performed at eight power reactor facilities assessed licensees' implementation of commitments made to the NRC pertaining to licensing submittals and reviewed licensees' programs for reviewing and reporting to the NRC changes in commitments in accordance with the NEI guidance or licensee-

specific procedures. The overall conclusion of the audits was that major changes to licensees' current approaches were not required to address safety concerns but that improvements in consistency and in control of licensing-basis information could be made, to the benefit of both the industry and the NRC staff. Commitment management was also a subject of discussion at the Utility/NRC Licensing Manager's Workshop held on July 20 and 21, 1998. Following the plan described in SECY-98-224, the staff worked with NEI and licensees as they revised the industry guidance document. These efforts were reflected, along with the insights from participating licensees, in the development of NEI 99-04.

DISCUSSION:

As described in SECY-98-224, the NRC staff sees benefits in maintaining regulatory commitments as an integral part of licensees' and NRC staff's control of each facility's licensing-basis information.⁽¹⁾ In SECY-98-224, the staff described a hierarchy structure for the various elements of a facility's licensing basis. An approach to the hierarchy was presented with different amounts of NRC involvement in terms of the change-control and reporting requirements for the different levels of the licensing-basis information. The levels mentioned were (1) obligations or regulatory requirements that require prior NRC approval of proposed changes, (2) mandated licensing-basis documents, such as the updated Final Safety Analysis Report (FSAR), that licensees may change without NRC approval provided the change does not exceed criteria defined by regulations, and (3) regulatory commitments that are controlled by licensee and NRC administrative processes. In NEI 99-04, NEI defines "obligations" and "regulatory commitments" as follows:

Obligation refers to any condition or action that is a legally binding requirement imposed on licensees through applicable rules, regulations, orders, and licenses (including technical specifications and license conditions). These conditions (also referred to as regulatory requirements) generally require formal NRC approval as part of the change-control process. Also included in the category of obligations are those regulations and license conditions that define change-control processes and reporting requirements for licensing-basis documents such as the updated FSAR, quality assurance program, emergency plan, security plan, fire protection program, etc.

Regulatory commitment means an explicit statement to take a specific action agreed to, or volunteered by, a licensee and submitted in writing on the docket to the NRC.

The process and guidance provided in NEI 99-04 are a refinement of those described in NEI's previous guidance document and SECY-95-300. During its reviews and discussions with stakeholders, the staff identified possible changes to the industry guidance on managing regulatory commitments. Through their use of the guidance document, licensees had also identified some possible improvements to the guidance issued in late 1995. The change-control and reporting processes and criteria used in NEI 99-04 are basically the same as those described in the previous guidance document. The most significant changes incorporated into NEI 99-04 are the following:

- The revised guidance differentiates between regulatory commitments and routine corrective actions described in correspondence with the NRC staff. The audits and other interactions between the staff and licensees revealed wide variations between licensees in what actions they identified as regulatory commitments. The guidance issued in 1995 recommended that licensees clearly identify regulatory commitments in correspondence with the NRC. Although some licensees are doing this, there continues to be differences in terms of what different licensees classify as regulatory commitments. To improve consistency, promote understanding, and limit the overlap of various regulatory processes, the staff and industry agreed that it would be beneficial to distinguish between regulatory commitments and corrective actions reported to the NRC in documents such as licensee event reports and responses to notices of violations. NEI 99-04 maintains the recommendation for licensees to clearly identify regulatory commitments in correspondence with the NRC and suggests that licensees distinguish clearly between regulatory commitments and enhancements, corrective actions taken in accordance with quality assurance programs, or other descriptive information.
- The revised guidance suggests that licensees use information management systems, annotations to procedures, or other methods to ensure the traceability of regulatory commitments after implementation. The staff and licensees observed that such systems help ensure that subsequent changes to regulatory commitments are evaluated using the change-control guidance in NEI 99-04. The previous guidance document focused on change control and reporting of commitment changes and did not address implementation or traceability issues.
- The revised guidance document addresses interactions between the NRC staff and groups of licensees, such as owners groups or NEI. It addresses those cases in which an organization makes statements represented as commitments by the participating licensees or when individual licensees make commitments pertaining to a generic program developed by an industry group and accepted by the NRC staff. As directed in the Staff Requirements Memorandum dated May 27, 1999, regarding SECY-99-063, "The Use by Industry of Voluntary Initiatives in the Regulatory Process," the staff is working with industry and other stakeholders to develop the process and guidelines for use of industry initiatives in the regulatory process. The process and guidelines developed for voluntary industry initiatives will address the possible role of regulatory commitments and other regulatory processes, including inspection and enforcement. When developing internal guidance or working with NEI and other stakeholders, the staff will try to ensure consistency and compatibility of the processes and guidance documents resulting from various ongoing initiatives.

The staff has reviewed NEI 99-04 and finds it offers an acceptable way to manage commitments. Definitions and other guidance in NEI 99-04 are consistent with the principles described in SECY-98-224 and the staff's plans for internal guidance. The staff will prepare guidance for its own use that is consistent with NEI-99-04. The internal guidance, as described in SECY-98-224, will address general licensing-basis issues and regulatory commitments. We will recommend periodic reviews of

licensees' management of regulatory commitments in the guidance being developed for the NRC staff.

SCHEDULING:

The staff expects to issue its response to the NEI letter and the related regulatory issues summary approximately 2 weeks after the date of this Commission paper. The staff plans to issue its internal guidance documents by March 31, 2000.

RESOURCES:

Resources needed to complete the acceptance of NEI 99-04, including preparing a letter to NEI and preparing a regulatory issue summary, are estimated to be a small fraction of an FTE and are included in NRR's current budget for regulatory improvements. The resources needed to complete the internal guidance are likewise included in the current budget estimates for regulatory improvements for NRR's division of licensing project management. Periodic reviews of licensees' commitment management programs are included in the developed budget cycles for NRR as 0.6 FTE per year under other licensing tasks. No additional resources are required.

COORDINATION:

The Office of the General Counsel has reviewed this paper and has no legal objections to its content.

The Office of the Chief Financial Officer has reviewed this paper for resource implications and has no objections.

The Office of the Chief Information Officer has reviewed this paper for information technology/information management implications and has no objections.

/RA/

William D. Travers
Executive Director for Operations

Contact: William D. Reckley, NRR
415-1323

Attachment: [NEI 99-04, "Guidelines For Managing NRC Commitments"](#) 

1. Although the terms "current licensing basis" and "licensing basis" are widely used in matters related to power reactors operating in accordance with the regulations in 10 CFR Part 50, the terms are not defined in Part 50 or in major regulatory guidance related to Part 50. "Current licensing basis" is defined in 10 CFR 54.3 pertaining to license renewal for power reactors.