

December 10, 2003

STAKEHOLDER: Nuclear Energy Institute

SUBJECT: SUMMARY OF OCTOBER 15, 2003, MEETING WITH NUCLEAR ENERGY INSTITUTE TO DISCUSS USE/IMPLEMENTATION OF NATIONAL FIRE PROTECTION ASSOCIATION STANDARD 805

On October 15, 2003, the U.S. Nuclear Regulatory Commission (NRC) staff met with representatives of Nuclear Energy Institute (NEI) at the NRC Headquarters in Rockville, Maryland. This meeting was intended to provide NRC staff comments on the NEI implementation guide for the National Fire Protection Association Standard 805 (NFPA-805), "Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants, 2001 Edition." Additionally, the NRC staff wanted the meeting to serve as a vehicle for members of the public to express concerns and provide advice on the implementation guidance proposed by NEI.

This meeting was classified as a Category 2 meeting which provided an opportunity for members of the public to discuss regulatory issues with the NRC at designated points identified on the agenda. Attachment 1 is a list of attendees and the meeting handouts have been placed in ADAMS.

The NRC staff discussed the status of the rulemaking revising Title 10 to the *Code of Federal Regulations* (10 CFR) Section 50.48, Fire Protection. The NRC staff indicated its tentative goal to issue a draft Regulatory Guide in the spring of 2004. NEI requested that the NRC staff consider one more opportunity to review any rule language changes since last posting before the rule is forwarded to the Commission for review. The NRC staff indicated that it would consider the request. An industry representative for Duke Energy provided an update on the status of the pilot implementation of draft NEI 04-01, "Guidance for Implementing a Risk Informed, Performance-Based Fire Protection Program under 10 CFR 50.48(c)," [ADAMS Accession No. ML031350544]. The representative indicated that one of the most significant changes to the implementation guidance, based on the Pilot Project, was that during implementation a licensee would submit a letter of intent to the NRC with a proposed schedule, to be followed by the license amendment proposal. Included in the amendment request would be enough information to rebaseline the fire protection licensing basis. Enforcement discretion was discussed and NEI proposed to the NRC staff that a moratorium on fire protection (FP) related enforcement be granted from the date of the intent letter. The NRC staff questioned whether enforcement discretion could be made based on a letter of intent, and indicated that the Offices of Enforcement and General Consul would be consulted. The NRC staff also questioned the amount of time the NEI proposed moratorium could be requested. NEI took an action to provide feedback on a proposed timeframe or limit.

During the meeting, the NRC staff provided high-level comments concerning the implementation guidance and indicated that the review of the feedback submitted by NEI concerning the implementation guidance had not been completed. The NRC staff intends to provide high-level comments on the NEI feedback by the end of November. The NRC staff did have seven comments on the draft NEI 04-01 Revision D, which were discussed in some detail.

Some overall comments included the NRC staff's desire that discussions inferring limitations on the NRC staff's authority be removed or relocated to an appendix, which would not be endorsed by the NRC staff. For example the implementing guide stated that the new rule would supersede existing 10 CFR Part 50 Appendix A requirements. The limitation concern was also true for various terms with definitions inconsistent with those published in various NRC regulatory documents. The NRC staff took an action to provide some examples where there were inconsistencies in NEI 04-01 with existing regulatory guidance and to consider adding guidance in the Statements of Consideration for the proposed rule regarding clarifying the hierarchy of the proposed FP rule to existing FP regulations. NEI took an action to relocate or remove guidance that implied limitations on the NRC staff's authority and endorsement of NRC fire models. NEI took an additional action to pull together into one place, the guidance related to the use of NFPA-805 tools by licensees not transitioning to NFPA-805.

The NRC staff commented on the risk-based nature used in the guide to assess the adequacy of FP defense-in-depth and safety margin. It was recognized by the NRC staff that additional guidance may be needed, and an action was taken to review the NRC's guidance. NEI took an action to add a discussion in Section 8.3.6.2 to more fully address the potential risk implications as to the limiting fire scenario.

The structure and overall clarity of the guide was questioned. The NRC staff noted that the guide was not organized in the same fashion as NFPA-805 and was concerned that this would add confusion. The NRC staff indicated their intention to provide some examples. NEI took an action to review the NRC staff's concerns.

A comment was made by an industry representative that progress had been made regarding several significant differences between the NRC staff and industry. The NRC staff found the meeting highly beneficial in obtaining feedback on the progress of the implementation guide and moving forwarding toward NRC endorsement of NEI 04-01 in a Regulatory Guide.

*/RA/*

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Project Directorate II  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Attachments: 1. Attendance List  
2. Action Items

December 10, 2003

Some overall comments included the NRC staff's desire that discussions inferring limitations on the NRC staff's authority be removed or relocated to an appendix, which would not be endorsed by the NRC staff. For example the implementing guide stated that the new rule would supersede existing 10 CFR Part 50 Appendix A requirements. The limitation concern was also true for various terms with definitions inconsistent with those published in various NRC regulatory documents. The NRC staff took an action to provide some examples where there were inconsistencies in NEI 04-01 with existing regulatory guidance and to consider adding guidance in the Statements of Consideration for the proposed rule regarding clarifying the hierarchy of the proposed FP rule to existing FP regulations. NEI took an action to relocate or remove guidance that implied limitations on the NRC staff's authority and endorsement of NRC fire models. NEI took an additional action to pull together into one place, the guidance related to the use of NFPA-805 tools by licensees not transitioning to NFPA-805.

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**Distribution:** See next page

\*See previous concurrence

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**ATTENDANCE LIST**  
**NUCLEAR REGULATORY COMMISSION STAFF MEETING**  
**WITH THE NUCLEAR ENERGY INSTITUTE (NEI)**  
**AT NRC HEADQUARTERS**  
**OCTOBER 15, 2003**

**NRC**

Sunil Weerakkody  
Alex Klein  
Paul Lain  
Joe Birmingham  
Richard Dipert  
Peter Koltay  
Eva Brown

**EXTERNAL STAKEHOLDERS**

Fred Emerson, Nuclear Energy Institute  
Elizabeth Kleinsorg, Kleinsorg Group Risk Services  
Douglas Brandes, Duke Power  
Dennis Henneke, Duke Power  
Jeff Ertman, Progress Energy  
Nancy Chapman, SERCH/Bechtel  
Phil DiNenno, Hughes Associates  
Bijan Najafi, Science Applications International Corp.

### NRC/NEI Meeting **Action Items**

Number	Description	Assigned
10/15-01	Consider posting the current rulemaking language again for public comment	NRC
10/15-02	Provide feedback regarding timeframe for moratorium on enforcement	NEI
10/15-03	Provide high level comments on Draft NEI 04-01 Rev. d by end of November	NRC
10/15-04	Provide examples of inconsistencies in Draft NEI 04-01 Rev. d with existing regulatory guidance	NRC
10/15-05	Consider adding guidance to the Rule Statements of Consideration regarding its place in the regulatory hierarchy	NRC
10/15-06	Remove statement from Draft NEI 04-01 indicating the new rule supersedes 10 CFR 50 Appendix A criteria	NEI
10/15-07	Remove guidance that implied endorsement of NEI fire models	NEI
10/15-08	Move guidance on the use of NFPA 805 tools by licensees not transitioning to NFPA 805 to one place	NEI
10/15-09	Review NRC guidance on defense-in-depth and safety margin	NRC
10/15-10	Add a discussion in 8.3.6.2 to more fully address the potential risk implications as to the limiting fire scenario	NEI
10/15-11	Provide examples demonstrating the complexity in following document as a result of its different layout from NFPA 805	NRC
10/15-12	Review complexity in following NEI 04-01 was a result of its different layout from NFPA 805	NEI