

Non-Concurrence Process Record for NCP-2013-012

The U.S. Nuclear Regulatory Commission (NRC) strives to establish and maintain an environment that encourages all employees to promptly raise concerns and differing views without fear of reprisal and to promote methods for raising concerns that will enhance a strong safety culture and support the agency's mission.

Individuals are expected to discuss their views and concerns with their immediate supervisors on a regular, ongoing basis. If informal discussions do not resolve concerns, individuals have various mechanisms for expressing and having their concerns and differing views heard and considered by management.

Management Directive MD 10.158, "NRC Non-Concurrence Process," describes the Non-Concurrence Process (NCP).

<http://pbadupws.nrc.gov/docs/ML0706/ML070660506.pdf>

The NCP allows employees to document their differing views and concerns early in the decision-making process, have them responded to, and attach them to proposed documents moving through the management approval chain.

NRC Form 757, NCP is used to document the process.

Section A of the form includes the personal opinions, views, and concerns of an NRC employee.

Section B of the form includes the personal opinions and views of the NRC employee's immediate supervisor.

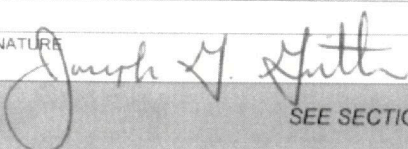
Section C of the form includes the agency's evaluation of the concerns and the agency's final position and outcome.

NOTE: Content in Sections A and B reflects personal opinions and views and does not represent official factual representation of the issues, nor official rationale for the agency decision. Section C includes the agency's official position on the facts, issues, and rationale for the final decision.

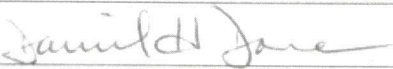
The agency's official position (i.e., the document that was the subject of the non-concurrence) is included in ADAMS Accession Number ML13210A206.

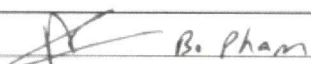

This record is profiled in ADAMS as publicly available and will be declared an official agency record when the SECY paper is declared after the Commission has voted and the SRM is issued.

ENCLOSURE 4

NRC FORM 757 <small>NRC MD 10-158 (7-2011)</small>		U.S. NUCLEAR REGULATORY COMMISSION	
NON-CONCURRENCE PROCESS		<small>NCP TRACKING NUMBER</small> NCP-2013-012	
SECTION A - TO BE COMPLETED BY NON-CONCURRING INDIVIDUAL			
<small>TITLE OF SUBJECT DOCUMENT</small> Ongoing Staff Activities to Assess Regulatory And Technical Considerations for Reactor SLR SECY		<small>ADAMS ACCESSION NO</small> ML13210A206	
<small>DOCUMENT SIGNER</small> Eric J. Leeds		<small>SIGNER PHONE NO</small> (301)415-1270	
<small>TITLE</small> Director	<small>ORGANIZATION</small> NRR		
<small>NAME OF NON-CONCURRING INDIVIDUAL(S)</small> Joseph Gitter		<small>PHONE NO</small> (301) 415-2884	
<small>TITLE</small> Director, Division of Risk Assessment	<small>ORGANIZATION</small> NRR		
<small>DOCUMENT AUTHOR</small>	<small>DOCUMENT CONTRIBUTOR</small>	<small>DOCUMENT REVIEWER</small>	<input checked="" type="checkbox"/> <small>ON CONCURRENCE</small>
<small>REASONS FOR NON-CONCURRENCE AND PROPOSED ALTERNATIVES</small>			
<p>I am nonconcurring on this SECY paper because I believe the SECY should provide to the Commission an option to require an upgraded Probabilistic Risk Assessment (PRA) when submitting an application for subsequent license renewal. I believe this option provides:</p> <ul style="list-style-type: none"> -Consistency with the Commission Policy Statement on the use of PRA -Opportunity to establish consistent PRA requirements for the current operating fleet and any future combined operating license holders seeking renewed licenses -Opportunity to better focus resources on risk insights, smart inspections, aging susceptibility, and integrated plant consequences <p>The Commission Policy Statement on the use of PRA (60FR42622) states that the use of PRA "should be increased in all regulatory matters to the extent supported by the state of the art..." The fact that the SECY does not include an option to consider the use of upgraded PRAs in the subsequent license renewal process is inconsistent with the intent of the Policy Statement. Since the current regulations for license renewal were promulgated (1995), the Commission issued the PRA Policy Statement (1996) and there have been meaningful improvements in the state of the art of PRA, particularly in the area of fire and external hazards. Many of the improvements in PRA scope and quality were necessitated by voluntary risk-informed licensing actions, such as NFPA-805, Risk-informed Tech Spec Initiative 4.b and risk-informed in-service inspection (RI-ISI). Although it is anticipated that PRA scope and quality will continue to improve, consistent with Commission direction on the phased approach to PRA quality, there is no "hard stop" requirement for PRAs--let alone upgraded PRAs--for the current fleet of operating reactors. To the contrary, reactors licensed under Part 52 are required to develop a Level 1 and Level 2 PRA that covers the initiating event and modes for which NRC-endorsed consensus standards exist. In addition, 10 CFR 50.71(h)(3) requires Combined Operating License (COL) holders to submit an upgraded PRA (one that covers all modes and initiating events) as part of their license renewal application. This inconsistency in license renewal regulations could result in an incongruous regulatory situation in the future, where plants licensed under Part 52 (that arguably have a lower baseline risk profile) are required to have an upgraded PRA, but plants operating for over 60 years under a Part 54 license renewal process would have no requirement for PRA whatsoever. The SECY should include an upgraded PRA requirement option similar to the requirement needed for a combined license holder to obtain a renewed license.</p> <p>Continued in Section D</p>			
<small>SIGNATURE</small> 		<input checked="" type="checkbox"/> <small>CONTINUED IN SECTION D</small> <small>DATE</small> 8/10/13	
SEE SECTION E FOR IMPLEMENTATION GUIDANCE			

NRC FORM 757 <small>NRC MD 10-158 (7-2011)</small>		U.S. NUCLEAR REGULATORY COMMISSION	
NON-CONCURRENCE PROCESS		<small>NCP TRACKING NUMBER</small> NCP-2013-012	
<small>TITLE OF SUBJECT DOCUMENT</small> Ongoing Staff Activities to Assess Regulatory Considerations for Power Reactor SLR SECY		<small>ADAMS ACCESSION NO.</small> ML13210A206	
SECTION D: CONTINUATION PAGE			
<small>CONTINUATION OF SECTION</small>		<input checked="" type="checkbox"/> A	<input type="checkbox"/> B
<input type="checkbox"/> C			
<p>Continued from Section A</p> <p>While I view the inclusion of a PRA requirement as an option in the SECY paper as a policy decision, I also believe that there are safety benefits for such a requirement. This in fact was recognized in the Statements of Consideration (SOC) for the 1995 License Renewal Rule which acknowledged that, "PRA methods and techniques would focus regulations and programs on those items most important to safety by eliminating unnecessary conservatism or by supporting additional regulatory requirements. PRA insights would be used to more clearly define a proper safety focus, which may be narrower or may be broader." The SOC went on to state that PRA should not be used to "justify poor performance in aging management or to reduce regulatory or programmatic requirements in aging management or to reduce regulatory or programmatic requirements to the extent that the implementation of the regulation or program is no longer adequate to credit for monitoring or identifying the effects of aging." An option for using an upgraded PRA in the subsequent license renewal process has safety benefits. For example,</p> <ul style="list-style-type: none"> - An appropriately upgraded PRA may be used to proactively identify the most susceptible aging locations with the highest consequences (similar to RI-ISI). - As plants age, the integrated effect of design bases may be difficult to determine and an important design feature may be altered or disabled during a modification. An upgraded PRA can provide an integrated analysis of these changes. - An upgraded PRA can help to assess the relative importance of structures and components that are subject to an aging management review by drawing attention to specific vulnerabilities. The upgraded PRA is an essential tool to help identify the most important plant risk contributors that can be focused on to improve overall plant safety. - An upgraded PRA provides the NRC with the latest core damage frequency and Large Early Release Frequency for assurance that adequate margins to safety goals are being met with updated design and reliability information. <p>Experience gained over the last twenty years from plant operation, the understanding of inspection methods, the use of PRAs and their insights, as well as an enhanced understanding of reliability, maintainability and those mechanisms (including their causes) that adversely impact aging has put the industry/regulatory bodies in a position today to develop balanced, integrated and effective changes to aging management program (AMP) requirements which focus on plant safety. In general, aging management programs have historically been performed based on mandated requirements, Generic Aging Lessons Learned (GALL) Report recommendations, or company policy. Most previous inspection requirements were based on past experience and engineering judgment and had only an implicit consideration of risk-informed information, such as failure probability (given the specific material, operation and loading conditions) and consequences.</p> <p>In summary, an option that would include an upgraded PRA requirement for subsequent license renewal could result in consistent regulations and provide a greater focus on risk insights, smart inspections, aging susceptibility, and integrated plant consequences to further insure that plants continue to operate safely beyond 60 years. Therefore, I believe an option for requiring an upgraded PRA is appropriate for subsequent license renewal.</p>			
SEE SECTION E FOR IMPLEMENTATION GUIDANCE			

NRC FORM 757 <small>NRC MD 10-106 (7-2011)</small>		U.S. NUCLEAR REGULATORY COMMISSION	
NON-CONCURRENCE PROCESS		NCP TRACKING NUMBER NCP-2013-012	
TITLE OF SUBJECT DOCUMENT Ongoing Staff Activities to Assess Regulatory and Technical Considerations for Reactor SLR SECY		ADAMS ACCESSION NO. ML13210A206	
SECTION B - TO BE COMPLETED BY NON-CONCURRING INDIVIDUAL'S SUPERVISOR			
NAME Daniel H. Dorman			
TITLE Deputy Director for Engineering and Corporate Support		PHONE NO. 301-415-1274	
ORGANIZATION Office of Nuclear Reactor Regulation			
COMMENTS FOR THE NCP REVIEWER TO CONSIDER			
<p>First, I commend Mr. Giitter and his staff for their thoughtful contributions to the development of this paper and to leadership's consideration of their concerns. They have demonstrated the NRC values and commitment to the Open, Collaborative Work Environment throughout.</p> <p>Mr. Giitter has provided a thoughtful discussion of the potential safety benefits of applying risk insights to aging management in the context of a subsequent license renewal. It is less clear to me why subsequent license renewal is the proper vehicle through which to introduce a requirement for Part 50 licensees to have an upgraded PRA. If it is inconsistent to have a PRA requirement for Part 52 licenses in renewal, but not for Part 50 licensees under Part 54 subsequent renewal, it is also inconsistent at first renewal and during initial operation. If there were no other on-going staff activities looking at broader framework issues where this might be addressed, I would be more inclined to provide the Commission an option in the context of subsequent license renewal. However, there are several staff activities that I believe provide a better venue for raising the option of requiring current licensees to have an upgraded PRA. For example, the staff continues to develop its response to Recommendation 1 of the Near Term Task Force and the Risk Management Regulatory Framework (RMRF) with Commission options papers due in December 2013 and late summer of 2014, respectively. An upgraded PRA requirement could provide safety benefits in many areas of the reactor licensing, oversight, and operations, therefore I recommend that consideration of such an option be presented to the Commission in a broad context such as Recommendation 1 or RMRF rather than in the narrower context of requirements for subsequent license renewal.</p> <p>Wherever the issue is presented to the Commission, it should include a robust discussion of the current and anticipated resource burdens on the available risk analysis resources of both the staff and industry (e.g., NFPA-805, seismic PRA response to Fukushima, risk-informed resolution of GSI-191, risk-informed technical specifications initiatives, Level 3 PRA) as well as a well-developed assessment of the timing and resources necessary to implement such a requirement.</p>			
		<input type="checkbox"/> CONTINUED IN SECTION D	
SIGNATURE 		DATE 8/23/13	
SEE SECTION E FOR IMPLEMENTATION GUIDANCE			

NRC FORM 757 <small>NRC MD 10-158 (7-2011)</small>		U.S. NUCLEAR REGULATORY COMMISSION	
NON-CONCURRENCE PROCESS		NCP TRACKING NUMBER NCP-2013-012	
TITLE OF SUBJECT DOCUMENT Ongoing Staff Activities to Assess Regulatory and Technical Considerations for Reactor SLR SECY		ADAMS ACCESSION NO. ML13210A206	
SECTION C - TO BE COMPLETED BY DOCUMENT SPONSOR			
NAME Bo M. Pham			
TITLE Branch Chief		PHONE NO. (301) 415-8450	
ORGANIZATION NRR/DLR/RSRG			
SUMMARY OF ISSUES <p>The NRC staff is preparing a notation-vote paper for The Commission which provides options for potential subsequent license renewal rulemaking. The paper does not include an option that would require operating reactors (originally licensed under 10 CFR 50) to meet the same requirement for PRA as reactors licensed under Part 52. Mr. Giitter believes the paper should include an option for The Commission to consider that would require applicants for subsequent license renewal to meet the same standard as "new" reactors license under Part 52.</p>			
ACTIONS TAKEN TO ADDRESS NON-CONCURRENCE <p>During the concurrence process the Division of Risk Assessment (DRA) expressed its concern discussed in Section A of this form. Division of License Renewal staff and management met several times with their DRA counterparts in an attempt to reach a consensus on how to address PRA in the paper. DRA and DLR staff tentatively agreed on draft language to include in the paper. The draft language proposed incentives for applicant's to update its PRA without an explicit requirement to do so. DLR and DRA staff presented the topic to NRR executive team (ET) members on 2 separate occasions. Subsequent to the meetings with the NRR ET members, DLR and DRA staff diverged on the appropriate recommendation for including PRA in the paper. As a result, DLR did not make significant changes to the paper and Mr. Giitter non-concurred.</p> <p>The paper does not include the option to require operating reactors (originally licensed under 10 CFR part 50) to meet the same requirement for PRA as reactors licensed under Part 52 because the potential rulemaking options presented in the paper are consistent with the underlying principles of license renewal. The underlying principles, as discussed in the 1995 SOC, rely on the existing regulatory process to ensure adequate protection of public health and safety, but also explain that license renewal should focus on issues that are uniquely relevant to public health and safety during the period of extended operation. Therefore, staff only recommends additional requirements for subsequent renewal that address issues unique to operation during the renewal term.</p> <p>(Continued in Section D)</p>			
SIGNATURE--DOCUMENT SPONSOR 		TITLE Branch Chief	
ORGANIZATION NRR/DLR/RSRG		DATE 9/24/13	
SIGNATURE--NCP REVIEWER 		TITLE Director	
ORGANIZATION NRR		DATE 9/25/2013	
NCP OUTCOME Non-Concurring Individual: CONCURS <input checked="" type="checkbox"/> NON-CONCURS WITHDRAWS NON-CONCURRENCE (i.e., discontinues process)			
AVAILABILITY OF NCP FORM Non-Concurring Individual: <input checked="" type="checkbox"/> WANTS NCP FORM PUBLIC WANTS NCP FORM NON-PUBLIC			
<input checked="" type="checkbox"/> CONTINUED IN SECTION D			
SEE SECTION E FOR IMPLEMENTATION GUIDANCE			

NRC FORM 757 NRC MD 10-15B (7-2011)		U.S. NUCLEAR REGULATORY COMMISSION	
NON-CONCURRENCE PROCESS		NCP TRACKING NUMBER NCP-2013-012	
TITLE OF SUBJECT DOCUMENT Ongoing Staff Activities to Assess Regulatory and Technical Considerations for Reactor SLR SECY		ADAMS ACCESSION NO. ML13210A206	
SECTION D: CONTINUATION PAGE			
CONTINUATION OF SECTION		A	B <input checked="" type="checkbox"/> C
<p>Issues that do not fit in this category can and should be adequately addressed by existing regulatory processes rather than through renewal requirements.</p> <p>For example, during the development of its recommendations for subsequent renewal, the staff considered requiring PRA updates, along with other requirements such as mandating replacement of components, and reviewing emergency planning for subsequent renewal. However, in keeping with the underlying principles discussed above, the staff did not recommend such changes in the SECY because they are not uniquely relevant to the period of extended operation and the existing regulatory processes already address them on an ongoing basis and will continue to do so during a subsequent renewal term (e.g., there is no compelling evidence to show that these requirements are needed for subsequent renewal but not for current operation).</p> <p>In addition, the current license renewal rule as discussed in the 1995 statements of consideration already allows license renewal applicants to risk inform its aging management activities. Therefore, no rule change would be necessary to allow subsequent license renewal applicants to use PRA insights to inform its aging management activities.</p> <p>Also, the statements of consideration published when enacting 10 CFR 50.71(h)(3), which requires Part 52 licensees to develop a PRA covering all modes and initiating effects, states that "The requirement to develop and maintain [an all mode] PRA by the time of license renewal application is intended only to establish a timing requirement for completing the upgrade of the PRA, and does not have any implications on the current requirements for license renewal. The upgraded PRA is not an element of any (i.e., past, present, or future) review or approval of a license renewal application." This supports the staff's assertion that imposing a PRA requirement is not uniquely relevant to operation during the renewal term and therefore should not be included as an option in the notation-vote SECY paper.</p>			
SEE SECTION E FOR IMPLEMENTATION GUIDANCE			