

Comment No.	Commenter	Comment	Resolution
1	UUSA	As referred to above, the Evaluation Policy Statement should make clear whether it will be used for “program” evaluations only or whether it also will be used to evaluate licensee-specific regulatory matters. The Notice seems to allude to both types of evaluations. Before issuing a final policy statement, NRC should consider either publishing additional clarification as to exactly how the Evaluation Policy Statement will be utilized (e.g., including some specific examples) and then give stakeholders another opportunity to comment or, at least, hold a public meeting/workshop to provide such clarification and obtain stakeholder feedback.	The policy statement has been revised to clarify that the general standards described in the policy statement apply to all types of NRC evidence-building activities, not just “evaluation” as that term is defined in the Evidence Act. The NRC will consider holding a public workshop to discuss implementation of the expanded policy statement and the Foundations for Evidence-Based Policymaking Act of 2018.
2	UUSA	UUSA broadly supports NRC’s use of the evaluation standards to assist the agency’s long-term risk-informed regulatory approaches and its reviews of innovative technologies, such as accident tolerant fuels. In the shorter-term, however, UUSA strongly encourages the NRC to apply its Evaluation Policy Statement to matters, such as the Part 61 rulemaking, before taking agency action. With respect to the Part 61 rulemaking, UUSA has submitted comments to the NRC expressing the view that the underlying regulatory analysis for that rulemaking is lacking supporting evidence about the impacts of the proposed new requirements on affected licensees who must dispose of low-level radioactive waste.	The NRC staff appreciates the comment. However, the policy statement is intended to articulate general standards for NRC evidence-building activities at a high level. Comments on the regulatory analyses of specific NRC rulemaking activities must be submitted in conjunction with those activities to be considered. No specific changes were made to the policy statement in response to this comment.
3	UUSA	The Evaluation Policy Statement should clarify how other NRC regulatory standards will be integrated into the evaluation process to help make it more efficient and effective, thus furthering a key purpose of the Evidence Act. The proposed Evaluation Policy Statement refers to the NRC’s Principles of Good Regulation, but it should also address how other NRC regulatory standards, such as NEPA environmental review and the Backfit Rule, will be coordinated with the evaluation policy. For example, under NEPA, an agency is generally required to analyze “reasonably foreseeable” environmental impacts in assessing a proposed project that constitutes a “major federal action.” The evidence-based principle of the Evaluation Policy Statement could assist in determining when indirect environmental impacts are reasonably foreseeable for NEPA purposes. Similarly, the NRC’s Backfit Rules require the NRC staff to perform a backfitting analysis to demonstrate that proposed backfits, before they are imposed on	The policy statement is intended to provide agency personnel and stakeholders with a clear understanding of the expectations related to the NRC’s standards for evidence-building. The policy statement has been revised to clarify that the general standards described in the policy statement apply to all types of NRC evidence-building activities. The policy statement includes general examples, at a high-level, of such activities (e.g. identifying, evaluating, and resolving safety issues; evaluations of operating experience; risk assessments). The policy statement has not been written with express reference to specific NRC regulatory processes, such as backfitting analyses or specific elements of the NRC’s NEPA reviews.

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		licensees, will produce a <i>substantial increase</i> in overall safety and be <i>cost-justified</i> . These Backfit Rule standards clearly presume that the NRC will have fully developed, strongly supported evidence to make the two required findings. Accordingly, the NRC's Evaluation Policy Statement should explain that NRC backfitting analyses, for both plant-specific backfits and rulemakings (or other generic backfits), should be supported by adequate empirical evidence and scientific data.	
4	UUSA	In concert with Comment 1, the Evaluation Policy Statement should make clear that NRC staff reviews of requested licensing actions are evidence-based so that they can be properly prioritized and not unduly delayed or withheld. The Evidence Act acknowledges and seeks to minimize inefficiencies in the collection and use of evidence in agency decision-making, as well as the wasted resources and duplication inherent in agency evidence building activities. To help avoid such inefficiencies in licensing reviews, for example, NRC requests for additional information ("RAIs") should be grounded in available empirical evidence and existing regulatory standards. Similarly, NRC contractor support for review of licensing submittals should be evidence-based, so that these reviews focus on legitimate issues and do not become theoretical research projects that delay needed licensing actions without any commensurate benefit to safety. Similarly, the Evaluation Policy Statement should make clear that NRC inspection activities will be evidence-based. For example, as part of planning for inspections, the inspection team should be expected to become familiar with the plant-specific licensing basis of the particular facility. Moreover, in assessing the safety or regulatory significance of inspection findings and apparent violations, the NRC's review should be based on objective evidence and data. This approach will support an implied purpose of the Evidence Act, which is to ensure that evidence is used in a targeted and efficient way to help conserve limited agency resources.	<p>The policy statement has been revised to clarify that the general standards described in the policy statement will be applied to all types of NRC evidence-building activities.</p> <p>As previously stated, the policy statement has been written at a high level without express reference to specific NRC regulatory processes or specific regulatory programs. Many of the examples provided in the comment are related to internal NRC processes or programs (i.e., the agency's process for issuing RAIs; contractor support for review of licensee submittals; the NRC's inspection program). These processes and programs may be reviewed using program evaluation to determine their effectiveness and efficiency. The NRC may consider reviewing these processes or programs and potentially include the plans for program evaluations in the NRC's evidence-building plan (learning agenda) that will be included in the FYs 2022-2026 Strategic Plan or the agency's annual evaluation plan.</p>
5	NEI	<p>We support the NRC's use of its evaluation standards to support the agency's risk-informed regulatory approaches and its reviews of innovative technologies such as small modular and advanced reactors, digital instrumentation and controls, and accident tolerant fuels.</p> <ul style="list-style-type: none"> • The history and purpose of the Evidence Act suggest that agencies must ensure that their regulatory programs have a sound technical 	The NRC staff appreciates the comment. No changes were made to the policy statement in response to this comment.

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		<p>basis, supported by empirical evidence and scientific data, in order to ensure efficiency and effectiveness.</p> <ul style="list-style-type: none"> • The NRC's evaluation standards can assist the agency in prioritizing safety issues, research, and regulatory reforms. For example, based on a review of objective fact-based evidence, the NRC may be able to conclude that the risk of aircraft impacts for reactors located underground or partly underground is so low that special protective structures are not needed. 	
6	NEI	<p>The Evaluation Policy Statement should clarify how other NRC regulatory standards will be integrated into the evaluation process.</p> <ul style="list-style-type: none"> • The proposed Evaluation Policy Statement refers to the NRC's Principles of Good Regulation, but it should also address how other NRC regulatory processes, such as NEPA environmental review and the Backfit Rule, will be coordinated with the evaluation policy. For example, under NEPA, an agency is only required to analyze "reasonably foreseeable" environmental impacts in assessing a proposed project. The evidence-based principle of the Evaluation Policy Statement could assist in determining which impacts are reasonably foreseeable for NEPA purposes. • Similarly, the NRC's Backfit Rule requires the NRC staff to perform a backfitting analysis to demonstrate that a proposed backfit will produce a cost-justified, "substantial increase" in overall safety. See 10 CFR 50.109(a)(3). The Backfit Rule standards are most meaningful if they are evidence-based. Accordingly, the NRC's Evaluation Policy Statement should explain that NRC backfitting analyses, for both plant-specific backfits and rulemakings (or other generic backfits), should be supported by adequate empirical evidence and scientific data. • The NRC should also make clear that, in addition to the rulemaking process, the generic communications program will be subject to evaluation in accordance with the standards of the Evaluation Policy Statement. 	See response to comment 3. The policy statement has been revised to clarify that the general standards described in the policy statement will be applied to all types of NRC evidence-building activities.
7	NEI	<p>With respect to licensing actions, the Evaluation Policy Statement should make clear that NRC staff reviews should be evidence-based so that requested licensing actions are properly prioritized and not unduly delayed or withheld.</p>	See response to comment 4.

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		<ul style="list-style-type: none"> • NRC's standards for changes to the existing license basis of an operating facility or initial licensing of small modular and advanced reactors should be based on adequate evidence and be risk-informed to the extent appropriate based on objective evidence. In light of the purpose of the Evidence Act, the NRC's Evaluation Policy Statement should have a primary focus of assuring that licensing reviews of are based on objective evidence and sound technical data and not be based on "how things have always been done." • In particular, NRC requests for additional information (RAIs) should be grounded in available empirical evidence and existing regulatory standards. • Similarly, NRC contractor support for review of licensing submittals should be evidence-based, so that such reviews do not become "research projects" to study hypothetical issues. 	
8	NEI	<p>The Evaluation Policy Statement should make clear that NRC inspection activities should be based on objective evidence and data.</p> <ul style="list-style-type: none"> • As part of a periodic review of baseline inspection activities, the NRC should assess the value/need for baseline inspection activities based on its contribution to risk and adjust inspection activity frequency based on past inspection data. • In assessing the safety, security or regulatory significance of inspection findings and apparent violations, the NRC's review and disposition of such findings and apparent violations should be based on objective evidence and data. 	See response to comment 4.
9	NEI	<p>NRC physical security requirements and oversight should be evidence-based.</p> <ul style="list-style-type: none"> • Security requirements for operating and advanced reactors should be sufficiently protective, and not unnecessarily burdensome. For advanced reactors, NRC should use an evidence-based evaluation of potential consequences that is comparable with the National Infrastructure Protection Plan approach for other critical infrastructure. 	See response to comment 3. The policy statement has been revised to clarify that the general standards described in the policy statement will be applied to all types of NRC evidence-building activities. However, the policy statement has been written at a high-level without express reference to specific NRC regulatory programs or specific NRC requirements.