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November 6, 2014

Ms. Cindy Bladey
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
ATTN: Rulemakings and Adjudications Staff

Subject: Industry Comments on Draft Generic Letter on Treatment of Natural Phenomena Hazards in Fuel Cycle Facilities, Docket NRC-2014-0187, (79 FR 46473)

Project Number: 689

Dear Ms. Bladey:

On behalf of the nuclear industry, the Nuclear Energy Institute (NEI)¹ submits the following comments on the Draft Generic Letter on the Treatment of Natural Phenomena Hazards (NPH) in Fuel Cycle Facilities. We have also attached responses to the six questions contained in the August 8, 2014 Federal Register notice referenced above. We appreciate the productive exchange of information during the U.S. Nuclear Regulatory Commission (NRC) public meeting held on September 23, 2014 which provided some clarity on NRC's intent of this regulatory action and informed our comments.

General Comments

1. Overall, the basis for the generic letter remains unclear given the small number of facilities affected by it and the following facts: 1) the facility-specific Integrated Safety Analyses (ISA), which consider NPH, were reviewed and accepted by NRC and the ISA Summaries are on the docket; 2) NRC has unfettered access to all facility information at any time to supplement its understanding of the ISA; and 3) NRC conducted relevant inspections in accordance with TI 2600/15 at operating facilities, which could be repeated as a less resource intensive alternative for collecting the requested information.

¹ The Nuclear Energy Institute (NEI) is the organization responsible for establishing unified industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel cycle facilities, nuclear materials licensees, and other organizations and entities involved in the nuclear energy industry.

2. The draft generic letter states that, at a number of facilities, there was insufficient documentation to justify assumptions and the lack of supporting documentation raises questions about the validity of such assumptions. However, the NRC issued Unresolved Items (URIs) to further assess whether the evaluated licensees are in compliance with license conditions, and the requirements of 10CFR70.61 and 10CFR70.62(c). Since, as the draft generic letter states, the facilities are adequate to protect public health and safety and individual license conditions are involved, the NRC should continue the resolution of the URIs, as necessary, through the normal process with individual licensees. If there are issues that become relevant to the fuel cycle industry at large, a generic communication such as a Regulatory Issue Summary or Information Notice could be issued to alert licensees to these issues and encourage licensee review of facility-specific ISAs for applicability.
3. The generic letter should not be addressed to applicants and licensees subject to 70.64, "Requirements for new facilities or new processes at existing facilities." Specifically, such entities had to demonstrate that the design provides for adequate protection against natural phenomena hazards with consideration of the most severe documented historical events for the site. Such designs were recently reviewed and approved by NRC. Most, if not all, of the requested information is included in the license application and/or ISA Summary and all information is available on site. Further, the draft generic letter anticipates that NRC may already have the information based on the note on page 7, i.e., licensees or facilities subject to 70.64(a)(2) may reference sections of their license application and/or ISA summaries as a response to applicable requested actions. Since this is a small number of facilities and it appears the NRC may already have most, if not all, of the requested information and has access to it; it would appear more efficient for NRC to address the facilities on an individual basis to obtain any additional information needed.
4. During the September 2014 public meeting, industry understood NRC to state that draft generic letter item (2)a., "evaluation basis for natural phenomenon events" is the licensee's site specific design basis determination (magnitude and likelihood) for the applicable natural events. If this is the case, it would appear that this information would be needed prior to performing item (1)b.iii, "assessment of consequences....that result in intermediate or high consequence events." NRC should clarify its expectations on this issue in the draft guidance and final generic letter.
5. NRC should clarify whether a response to Question (1)c. is required only if there is a change in methodology, likelihood and severity of NPH with that used in the original design/evaluation of the facility (this assumes responses to (1)a. and (1)b. provide the bases for existing NPH used by the licensee). Also, this question appears to be similar to question (2) with the exception that any required actions have been completed.
6. NRC should clarify whether a response to Question (2) is required only if additional actions are needed to validate assumptions used by the licensee in their NPH assessments. If true, it is

anticipated that few, if any, fuel cycle facilities would be required to provide a response to Question (2).

7. NRC should clarify how the generic letter will be closed. During the September 2014 public meeting, NRC staff stated that it would issue a letter to document closure of the generic letter response review process. As such, industry assumes that NRC would issue a letter to each facility when NRC completes its review of that facility, rather than NRC issuing a single letter to summarize the aggregated review of all facilities. Therefore, we request NRC clarification on the process to be used.
8. Also during the September 2014 public meeting, NRC stated that an Interim Staff Guidance (ISG) is being developed to facilitate licensee responses to and compliance with the generic letter. The timing of such guidance is unclear, and was not reflected in the September version of NRC's regulatory initiatives integrated schedule. Admittedly, there are pros and cons to issuing a final ISG before or after issuance of a final generic letter. For example, the final generic letter could be issued first, thereby informing the final ISG or vice versa. That being said, we suggest that a draft ISG be issued for comment with a due date in advance of the final generic letter being issued for the following reasons: 1) review of the draft ISG could reveal to NRC different interpretations of what is expected in the industry responses to the generic letter that would need to be resolved prior to issuing the final generic letter; 2) stakeholder comments on the draft ISG could further inform the contents and scope, and improve the clarity, of the final generic letter; and 3) licensees would gain the insights provided by the draft ISG and, in practical terms, be afforded additional time to prepare their responses. With this approach, the final ISG could be issued simultaneously with issuance of the final generic letter.

We are available to clarify any industry comments as needed and we look forward to review of the final generic letter and associated guidance. Thank you for the opportunity to comment on this matter.

Sincerely,



Janet R. Schlueter

Attachment

c: Ms. Marissa G. Bailey, NMSS/FCSE, NRC
Mr. Jonathan Marcano, NMSS/FCSE/PORB, NRC
Mr. Anthony Gody, DFFI/Region II, NRC

Industry Responses to the Six Questions in the Federal Register Notice for the Draft Generic Letter on the Treatment of Natural Phenomena Hazards in Fuel Cycle Facilities Docket NRC-2014-0187, (79 FR 46473)

In light of any current or projected cumulative effects, does this generic letter request provide sufficient time for licensees to respond with the information requested, including any need to develop this information through supporting engineering calculation or analyses?

At this time, the draft generic letter appears to provide sufficient time for licensees to respond with the information requested or make a determination on whether to request an extension of time to respond. This position is based on the fact that the draft generic letter was issued in August 2014 for public comment by November 6, 2014, a public meeting was held in September 2014 and the final generic letter is not expected until winter 2015. Had it been issued in final without this draft and discussion phase, the time allowed for response and any analyses would likely have been inadequate.

If a current or projected cumulative effect poses a significant challenge, what should be done to address it? For example, if more time is required to develop and provide information, what period of time is sufficient? Are there equally effective alternatives to providing the requested information to the NRC that reduce the cumulative effect?

The necessary time and appropriate mechanism used by NRC or industry to address the cumulative impact from a specific regulatory initiative will vary depending on its safety or security significance, and corresponding level of effort, resources and time to address it as well as other priorities. In this case, NRC has in its possession or has access on-site at the licensed facility to a large portion if not all of the information requested in the draft generic letter. Therefore, requiring the licensee to replicate and consolidate it (e.g., definitions of "highly unlikely") and, in the absence of an identified safety issue, submit it in a different format simply for a different regulatory purpose appears to be a poor use of limited industry and NRC resources.

Do other (NRC or other regulatory agency) regulatory actions (e.g., Orders, rules, generic letter, bulletins, 50.54(f) requests) influence licensee responses to this draft generic letter? If so what are they and do you have a suggested approach to reduce the cumulative effects in light of these other regulatory actions?

Yes. NRC staff stated its intent to issue guidance to help licensees inform their responses to a generic letter on natural phenomena hazards during the winter of 2015. As noted in item 7 of our cover letter on this matter, a draft Interim Staff Guidance (ISG) should be issued for comment with a due date in advance of the final generic letter being issued for the following reasons: 1) review of the draft ISG could reveal to NRC different interpretations of what is expected in the industry responses to the generic letter that would need to be resolved prior to issuing the final generic letter; 2) stakeholder comments on the draft ISG could further inform the contents and scope, and improve the clarity, of the final generic letter; and 3) licensees would gain the insights provided by the ISG and, in practical terms, be afforded additional time to prepare their responses. With this approach, the final ISG could be issued simultaneously with issuance of the final generic letter.

Are there other projects that licensees are undertaking, plan to undertake, or should be undertaking that provide greater safety benefit, that might be displaced or delayed as a result of the expenditure of effort and resources to respond to this generic letter?

Yes. As we have stated on several occasions, industry has delayed or protracted its efforts to implement certain facility-initiated program or operational improvements due to the heavy workload associated with the many ongoing NRC-initiated regulatory initiatives (See the integrated schedule for fuel cycle industry initiatives on NRC's website). Consistent with our letter dated April 3, 2013, the following are a few examples of such facility-initiated improvements that are delayed or protracted yet would yield greater safety benefit if pursued than most if not all of the current regulatory initiatives underway.

- Increase the periodicity of station-specific worker training
- Improve the timeliness of field labeling of certain Items Relied On For Safety
- Improve the pace of systematic elimination of administrative controls - where engineered controls could be used
- Improve on meeting the goal of conducting a systematic re-review of the ISA at a specified periodicity
- Improve the periodicity of the conduct of self-assessments and efforts to implement best practices
- Increase the amount of time that managers and senior experts spend on the facility floor
- Improve the time to develop new processes to recover special nuclear material
- Improve the time to develop new or improved low-level waste minimization efforts

Are there unintended consequences associated with responding to this generic letter at this time?

Due to the sheer number of regulatory initiatives with due dates by year's end and other concurrent initiatives, the time to conduct a critical review and provide insightful comments on this draft generic letter and has been relatively limited and less than one would prefer.

Please comment on the NRC's supporting justification for this generic letter.

Given the relatively low risk of consequences of concern to the public or environment as a result of a natural phenomenon event at a fuel cycle facility, the resources expended to conduct any necessary analyses, assimilate and submit the information and potentially respond to Requests for Additional Information or related inspection findings is difficult to justify from a cost-benefit perspective.