



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
WASHINGTON, D.C. 20555-0001

December 26, 2012

Mr. Michael J. Pacilio
President and Chief Nuclear Officer
Exelon Nuclear
4300 Winfield Road
Warrenville, IL 60555

**SUBJECT: OYSTER CREEK NUCLEAR GENERATING STATION – AUDIT OF EXELON'S
MANAGEMENT OF REGULATORY COMMITMENTS (TAC NO. ME9536)**

Dear Mr. Pacilio:

In Regulatory Issue Summary 2000-17, "Managing Regulatory Commitments Made by Power Reactor Licensees to the NRC Staff," dated September 21, 2000 (Agencywide Documents and Access and Management System (ADAMS) Accession No. ML003741774), the U.S. Nuclear Regulatory Commission (NRC) informed licensees that the Nuclear Energy Institute (NEI) document NEI 99-04 (ADAMS Accession No. ML003696998), "Guidelines for Managing NRC Commitment Changes," contains acceptable guidance for controlling regulatory commitments. RIS 2000-17 encouraged licensees to use the NEI guidance or similar administrative controls to ensure that regulatory commitments are implemented and that changes to the regulatory commitments are evaluated and, when appropriate, reported to the NRC.

The NRC Office of Nuclear Reactor Regulation has instructed its staff to perform an audit of licensees' commitment management programs once every 3 years to determine whether the licensees' programs are consistent with the industry guidance in NEI 99-04, and that regulatory commitments are being effectively implemented.


An audit of Oyster Creek Nuclear Generating Station's (OCNGS's) commitment management program was performed during September – December 2012. The NRC staff concludes, based on the audit, that OCNGS has put into operation an acceptable program for implementing and managing NRC commitments. Details of the audit are set forth in the enclosed audit report.

M. Pacilio

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If you have any questions regarding this letter, please feel free to contact me at (301) 415-3100 or John.Lamb@nrc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "John G. Lamb". The signature is fluid and cursive, with the first name "John" being the most prominent.

John G. Lamb, Senior Project Manager
Plant Licensing Branch I-2
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-219

Enclosure:
Audit Report

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UNITED STATES
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AUDIT REPORT BY THE OFFICE OF NUCLEAR REACTOR REGULATION

LICENSEE MANAGEMENT OF REGULATORY COMMITMENTS

OYSTER CREEK NUCLEAR GENERATING STATION

DOCKET NO. 50-219

1.0 INTRODUCTION AND BACKGROUND

The U.S. Nuclear Regulatory Commission (NRC) informed licensees in Regulatory Issue Summary (RIS) 2000-17, "Managing Regulatory Commitments Made by Power Reactor Licensees to the NRC Staff," dated September 21, 2000 (Agencywide Documents and Access Management System (ADAMS) Accession No. ML003741774), that the Nuclear Energy Institute (NEI) document NEI 99-04, "Guidelines for Managing NRC Commitment Changes" (ADAMS Accession No. ML003696998) contains acceptable guidance for controlling regulatory commitments. RIS 2000-17 encouraged licensees to use the NEI guidance or similar administrative controls to ensure that regulatory commitments are implemented and that changes to the regulatory commitments are evaluated and, when appropriate, reported to the NRC. NEI-99-04 defines a "regulatory commitment" as 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 NRC Office of Nuclear Reactor Regulation (NRR) has instructed its staff to perform an audit of licensees' commitment management programs once every 3 years to determine whether the licensees' programs are consistent with the industry guidance in NEI 99-04, and that regulatory commitments are being effectively implemented. An audit of the Oyster Creek Nuclear Generating Station (OCNGS) commitment management program was performed at NRC Headquarters from September – December 2012, with a plant site visit during the period December 10 – 11, 2012. The audit reviewed commitments made since the previous audit that was issued on February 27, 2009 (ADAMS Accession No. ML090570036).

NRR guidelines direct the NRR Project Manager to audit the licensee's commitment management program by assessing the adequacy of the licensee's implementation of a sample of commitments made to the NRC in past licensing actions (amendments, reliefs, exemptions, etc.) and activities (bulletins, generic letters, etc.).

2.0 AUDIT PROCEDURE AND RESULTS

The audit consisted of three major parts: (1) verification of the licensee's implementation of NRC commitments that have been completed, (2) verification of the licensee's program for managing

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changes to NRC commitments and (3) verification that all regulatory commitments reviewed were correctly applied in NRC staff licensing action reviews.

2.1 Verification of Licensee's Implementation of NRC Commitments

The primary focus of this part of the audit is to confirm that the licensee has implemented commitments made to the NRC as part of past licensing actions/activities. For commitments not yet implemented, the NRC staff determines whether they have been captured in an effective program for future implementation. The audit also verifies that the licensee's commitment management system includes a mechanism to ensure traceability of commitments following initial implementation. This ensures that licensee personnel are able to recognize that future proposed changes to the affected design features or operating practices require evaluation in accordance with the commitment change control process.

2.1.1 Audit Scope

The audit addressed a sample of commitments made during the review period. The audit focused on regulatory commitments (as defined above) made in writing to the NRC as a result of past licensing actions (amendments, exemptions, etc.) or licensing activities (bulletins, generic letters, etc.). Commitments made in Licensee Event Reports or in response to Notices of Violation may be included in the sample, but the review will be limited to verification of restoration of compliance, not the specific methods used. Before the audit, the NRC staff searched ADAMS for the licensee's submittals since the last audit and selected a representative sample for verification.

The audit excluded the following types of commitments that are internal to licensee processes:

- (1) Commitments made on the licensee's own initiative among internal organizational components.
- (2) Commitments that pertain to milestones of licensing actions/activities (e.g., respond to an NRC request for additional information by a certain date). Fulfillment of these commitments was indicated by the fact that the subject licensing action/activity was completed.
- (3) Commitments made as an internal reminder to take actions to comply with existing regulatory requirements such as regulations, Technical Specifications (TSs), and Updated Final Safety Analysis Reports. Fulfillment of these commitments was indicated by the licensee having taken timely action in accordance with the subject requirements.

2.1.2 Audit Results

The attached table contains a list of those documents that were selected for additional review during this audit.

The NRC staff found that the licensee's commitment tracking program had captured all the regulatory commitments that were identified by the NRC staff before the audit. The NRC staff

also reviewed plant procedures, assessment recommendations, work orders, corrective actions, training, qualification certifications and action requests that had been initiated or revised as a result of commitments made by the licensee to NRC.

The program has a requirement that the licensee perform an annual review and assessment of site and corporate commitments. The most recent OCNCS 2011 annual review was reviewed by the NRC staff. The 2011 annual review appeared thorough. It identified isolated concerns with procedure annotation. Further, the NRC staff found that appropriate corrective actions were initiated.

2.2 Verification of the Licensee's Program for Managing NRC Commitment Changes

The primary focus of this part of the audit is to verify that the licensee has established administrative controls for modifying or deleting commitments made to the NRC. The NRC staff compared the licensee's process for controlling regulatory commitments to the guidelines in NEI 99-04, which the NRC has found to be an acceptable guide for licensees to follow for managing and changing commitments. The process used at OCNCS is contained in LS-AA-110 - Revision 9, "Commitment Management." The audit reviewed a sample of commitment changes that included changes that were or will be reported to the NRC, and changes that were not or will not be reported to the NRC. The audit also verifies that the licensee's commitment management system includes a mechanism to ensure traceability of commitments following initial implementation. This ensures that licensee personnel are able to recognize that future proposed changes to the affected design features or operating practices require evaluation in accordance with the commitment change control process.

2.2.1 Audit Results

The NRC staff reviewed the licensee's procedure LS-AA-110, Revision 9. Section 6.1 of the procedure lists NEI 99-04 as a reference. The NRC staff found that LS-AA-110 generally follows the guidance of NEI 99-04 and provides detailed instructions for making regulatory commitments, tracking regulatory commitments, annotating documents to provide traceability of commitments, and for making changes to commitments. Therefore, the NRC staff concludes that the procedure used by the licensee to manage commitments provides the necessary attributes for an acceptable commitment management program.

The NRC staff also reviewed documents that had been created or revised as a result of commitments made by the licensee to the NRC. The NRC staff noted that the revised documents have annotations referring to commitments as part of the commitment change control process. These annotations serve to prevent the commitments from inadvertently being deleted or altered without having gone through the commitment change process.

The NRC staff reviewed the following OCNCS procedures:

- ABN-1, Revision 11, "Reactor Scram."
- EMG-SP2, Revision 0, "Support Procedure 2 Feed and Condensate System Operation."
- 1002.6, Revision 15, "Oyster Creek Spent Fuel Rack In-Service Surveillance and Management Program for Boraflex Racks."
- 665.5.002, Revision 30, "Secondary Containment Leak Rate Test."

- 312.10, Revision 19, "Secondary Containment Control."
- PBD-AMP-B.1.13, Revision 2, "Open Cycle Cooling Water System."
- RP-AA-210, Revision 22, "Dosimetry Issue, Usage, and Control."
- NO-AA-10, Revision 86, "Quality Assurance Topical Report."
- PBD-AMP-B.1.15, Revision 1, "Boarflex Rack Management Program."
- CY-AB-120-300, Revision 6, "Spent Fuel Pool."
- NF-AA-610, Revision 7A, "On-Site Wet Storage of Spent Nuclear Fuel."

The NRC staff also reviewed the following documents:

- NET-300000-01, Revision 0, "BADGER Test Campaign at Oyster Creek," by NETCO (a business unit of Curtiss-Wright Flow Control Corporation).
- Technical Evaluation 01181101-06 by NETCO.
- AR 01353678, "Oyster Creek 2011 BADGER Campaign Final Results."
- AR A0703677, "Containment Spray System I Results."
- AR A0703677, "Containment Spray System II Results."
- Work Order (WO) R2179360, "Inspect Piping in Vault Outside SE Rx."
- WO R211727, "Perform Internal Inspection of T-9-103."
- WO R2068875, "Perform Internal Inspection of T-9-103."
- WO R2119978, "Perform Internal Inspection of T-9-104."
- WO R2119661, "Perform Internal Inspection of T-9-104."
- WO R2119747, "Perform External Inspection of T-9-103."
- WO R2190548, "Setup for Containment Spray System I Heat Exchanger Performance Monitoring."
- WO R2189970, "Setup for Containment Spray System II Heat Exchanger Performance Monitoring."
- WO R2179242, "Temporary Modifications for Trunnion Room "Door Open.""
- WO R0803689, "Remove Boraflex Acceleration Sample from Fuel Rack."
- WO R0800340, "Boraflex Fuel Rack Inservice Program – Long Term."
- WO R2055933, "BADGER Testing for Boraflex Fuel Racks."
- Letter dated June 15, 2012, from Allen Smith, Senior Planner RERP&T Unit, to Acting Captain T. Scardino, Bureau Chief, Emergency Response Bureau, Subject: FEMA Hot Wash for Oyster Creek Nuclear Generating Station Exercise.

AR 01127995-01-00 stated that OCNGS procedure 665.5.002 was revised. The NRC staff reviewed the procedure and it was not revised. The NRC staff asked the licensee why the procedure was not revised. The licensee looked into the matter and determined that OCNGS procedure 665.5.002 did not need to be revised and that AR 01127995-01-00 should have been revised. The licensee put this item into its corrective action program to revise.

WO R211727 stated that the following regarding the Fire Pond Diesel Fuel Tank "A:" "Bottom of the tank has a good amount of sludge." The NRC staff questioned the licensee about the cleanup of the sludge in the bottom of the tank. The licensee stated that the vendor, Clean Ventures, cleaned and flushed the tank.

WO R2119978 stated that the following regarding the Fire Pond Diesel Fuel Tank "B:"

“...the inside of the tank shows signs of deterioration.” The licensee performed ultrasonic thickness (UT) testing on the tank. The NRC staff asked to see the UT data. The NRC staff reviewed the data and the UT readings were consistent with WO R2119978. The NRC staff asked the licensee to provide silica measurements from the spent fuel pool for the period from January 2010 to present. The NRC staff reviewed the silica measurements used in the Technical Evaluation 01181101-06 by NETCO. The NRC staff confirmed that the readings were consistent.

2.3 Review to Identify Misapplied Commitments

The commitments reviewed for this audit were also evaluated to determine if they had been misapplied. A commitment is considered to be misapplied if the action comprising the commitment was relied on by the NRC staff in making a regulatory decision such as a finding of public health and safety in an NRC safety evaluation associated with a licensing action. Reliance on an action to support a regulatory decision must be elevated from a regulatory commitment to a legal obligation (e.g., license condition, condition of a relief request, regulatory exemption limitation or condition). A commitment is also considered to have been misapplied if the commitment involves actions that were safety significant (i.e., commitments used to ensure safety).

Each of the commitments selected for the audit sample were reviewed to determine if any had been misapplied. The audit did not reveal any misapplied commitments.

2.3.1 Review of Safety Evaluation Reports for Licensing Actions since the Last Audit to Determine if they are Properly Captured as Commitments or Obligations

In addition to the commitments selected for the audit sample, all license amendment safety evaluations, exemptions and relief request safety evaluations that have been issued for a facility since the last audit were identified. These documents were evaluated to determine if they contained any misapplied commitments as described above.

A review of all the licensing actions since February 2009 did not reveal any misapplied commitments.

3.0 CONCLUSION

As discussed above, the licensee's procedure used to implement and manage commitments provides the necessary attributes for an acceptable commitment management program.

4.0 LICENSEE PERSONNEL CONTACTED FOR THIS AUDIT

David Helker
Richard Gropp
James Kerr
Tim Trettel
Christy Holtzapple

Principal Contributor: John G. Lamb

Date: December 26, 2012

Attachment: Summary of Audit Results

TABLE – SUMMARY OF AUDIT RESULTS
LIST OF DOCUMENTS REVIEWED

Item	Source	Commitment	Timeframe	Comments
1	Amendment to Remove References to GL82-12 ML083500217 3/23/09	The licensee included a regulatory commitment to ensure that work hour limitations are controlled during the period of implementation at Oyster Creek. The commitment ensures work hour controls will be in effect continuously, either through the current technical specification (TS) requirements or through the requirements of 10 CFR Part 26, Subpart I, during the period of implementation. Following the implementation period, the requirements of 10 CFR Part 26, Subpart I will be in effect.	During the period of implementation	Requirements of 10 CFR Part 26, Subpart I are currently in effect. Commitment was effectively controlled during the period of implementation.
2	Amendment for Control Rod Notch Testing Frequency ML092530561 10/22/09	There was no commitment.	N/A	None.
3	Amendment for Relocation of Surveillance Requirement Frequencies ML101930172 9/27/10	There was no commitment.	N/A	None.
4	Amendment regarding Secondary Boundary Definition ML102430551 10/18/10	There was no commitment.	N/A	None.
5	Amendment regarding Elimination of Daily Testing of Emergency Diesel Generator ML111170194 6/16/11	There was no commitment.	N/A	None.
6	Amendment regarding Changes to Appendix B, Environmental TSs ML111310153 6/28/11	There was no commitment.	N/A	None.

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Item	Source	Commitment	Timeframe	Comments
7	Amendment regarding Cyber Security Plan (CSP) ML111861341 8/10/11	The NRC staff acknowledges that, in its submittal dated July 23, 2010, Exelon proposed several CSP milestone implementation dates as regulatory commitments. The NRC staff does not regard the CSP milestone implementation dates as regulatory commitments that can be changed unilaterally by the licensee, particularly in light of the regulatory requirement at 10 CFR 73.54 that "Implementation of the licensee's cyber security program must be consistent with the approved schedule." As the NRC staff explained in its letter to all operating reactor licensees dated May 9, 2011 (ADAMS Accession No. ML10980538), the implementation of the plan, including the key intermediate milestone dates and the full implementation date, shall be in accordance with the implementation schedule submitted by the licensee and approved by the NRC. All subsequent changes to the NRC-approved CSP implementation schedule thus will require prior NRC approval pursuant in 10 CFR 50.90.	N/A	The NRC staff did not allow the regulatory commitments and made a license condition.
8	Relief Request for Alternative Examination for Reactor Pressure Vessel Circumferential Shell Welds ML092520039 9/15/09	There was no commitment.	N/A	None.
9	Relief Request VR-02 for 5 th Inservice Testing Interval (IST) ML120050350 1/24/12	There was no commitment.	N/A	None.
10	Relief Request VR-01 for 5 th IST ML120050337 3/22/12	There was no commitment.	N/A	None.
11	Relief Request to Extend 4 th Inservice Inspection Interval (ISI) ML12145A703 6/14/12	There was no commitment.	N/A	None.

Item	Source	Commitment	Timeframe	Comments
12	Relief Request PR-01 for 5 th IST ML120050329 6/21/12	There was no commitment.	N/A	None.
13	Generic Letter 2008-01, "Managing Gas Accumulation in Emergency Core Cooling, Decay Heat Removal, and Containment Spray Systems" ML11171074 6/30/11	There was no commitment.	N/A	None.
14	Bulletin 2007-01, "Security Officer Attentiveness." ML102600443 9/17/10	There was no commitment.	N/A	None.
15	Bulletin 2011-01, "Mitigating Strategies" ML12160A387 6/14/12	There was no commitment.	N/A	None.
16	Exemption from specific requirements of Title 10 of the <i>Code of Federal Regulations</i> , Part 50, Appendix R ML110700267 3/30/11	There was no commitment.	N/A	None.
17	Exemption from specific requirements of Title 10 of the <i>Code of Federal Regulations</i> , Part 50, Appendix R ML110700451 3/30/11	There was no commitment.	N/A	None.
18	Exemption from specific requirements of Title 10 of the <i>Code of Federal</i>	There was no commitment.	N/A	None.

Item	Source	Commitment	Timeframe	Comments
	<i>Regulations, Part 50, Appendix E ML113410293 12/22/11</i>			
19	AR 00885266-02-00 GL 2008-01 commitment.	Change procedure.	April 2009	Complete
20	AR 01127995-01-00	Ensure effective Implementation of Trunion Room License Amendment Request	December 2012	Complete
21	AR 011695573-07-00	Use of weighting factors for external exposure	February 2011	Complete
22	AR 01169610-07-00	Use of Mururoa air-supplied respiratory protection suits	February 2011	Complete
23	AR 01169709-07-00	Use of Mururoa self-contained respiratory protection suits	February 2011	Complete
24	AR 01223694-49-00	Approved Cyber Security Plan – Commitment 1	July 2011	Complete
25	AR 01237711-01-00	Satisfy amendment "Implementing Requirements" (Item 3)	September 2011	Complete
26	AR 01289432-01-00	Complete/Evaluate offsite elements of Emergency Preparedness (EP) biennial exercise	June 2012	Complete
27	AR 01306355-01-00	Complete remaining offsite portions of the EP exercise	June 2012	Complete
28	AR 01362747-10-00	Regulatory commitment to provide NRC communications assessment	June 2012	Complete
29	CCT 09-004	GL 88-020	April 2009	Ongoing
30	CCT 09-005	Buried Piping Inspection	April 2009	Ongoing
31	CCT 09-006	Buried Piping Inspection	April 2009	Ongoing
32	CCT 10-001 Rev 1	Boraflex Monitoring	December 2010	Ongoing
33	CCT 12-001	Open cycle cooling water system	January 2012	Ongoing
34	CCT 12-002	Open cycle cooling water system	March 2012	Ongoing

M. Pacilio

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If you have any questions regarding this letter, please feel free to contact me at (301) 415-3100 or John.Lamb@nrc.gov.

Sincerely,

/RA/

John G. Lamb, Senior Project Manager
Plant Licensing Branch I-2
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-219

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