requirements memorandum (SRM), the Commission directed the staff to maintain the current requirements that licensees update their inservice inspection and inservice testing programs every 10 years to the latest edition of the ASME Code that is incorporated by reference in NRC regulations. Therefore, the requirements of 10 CFR 50.55a will result in future changes to those aging management programs that rely on the ASME Code. To ensure that the GALL report conclusions will remain valid when future editions of the ASME code are incorporated into the NRC regulations by the 10 CFR 50.55a rulemaking, the staff will perform an evaluation of these later editions for their adequacy for license renewal using the 10-element program evaluation described in the GALL report as part of the 10 CFR 50.55a rulemaking.

There are other national codes and standards that are referenced in the draft GALL report, such as those published by the American Concrete Institute (ACI), that are not subject to the Commission's approval process in 10 CFR 50.55a. How should the GALL report reference editions of such national codes and standards? Should specific code editions be cited, and then, an applicant using a different edition would have to verify that the applicant's edition is equivalent to the specific edition cited in the GALL report before the applicant can reference the GALL report evaluation?

4. The draft GALL report identifies specific aging effects, based on operating experience or technical expertise, that should be managed for particular structures and components. The NRC staff expects an applicant to discuss, in its application, any aging effects identified in the draft GALL report for a particular structure or component that the applicant has determined to be not applicable to its plant. However, NEI suggests that an applicant need not address aging effects that were determined not to be applicable. NEI suggests instead that the NRC staff should review the applicant's process for identifying aging effects that should be managed for license renewal. However, the NRC staff believes that such a process is too general and operating experience has shown that aging effects are often system, structure, or component-specific. Although the NRC staff does not expect all aging effects identified in the draft GALL report would be applicable to a particular plant, the draft GALL report does not identify unlikely aging effects and evaluate the associated aging management programs. Thus, the NRC staff believes that any such exception taken by an applicant for its plant should be justified as part of the application. Should an applicant be required to justify, in its application, the omission of any aging effects identified in the GALL report, that the applicant has determined not to be applicable?

### Public Workshop

A public workshop is scheduled during the public comment period on Monday, September 25, 2000, 8:30 am to 4:00 pm. The workshop will provide the participants an opportunity to obtain further information, ask questions, make comments during the discussion, or otherwise facilitate the public in formulating and preparing written comments for NRC consideration on draft DG–1104, draft SRP–LR, and the draft GALL report.

To ensure that all of the ideas raised are recorded, the workshop will be transcribed and the NRC staff will prepare a summary report to categorize the comments. This one-day session attempts to cover a wide range of views and aging management programs. The NRC staff is planning an open forum for the workshop to better solicit public comments. The agenda and format of the workshop have not been finalized. However, a tentative agenda for the workshop follows:

- Registration
- Open Remarks
- License Renewal Rule and Guidance Development Overview
- Draft Regulatory Guide and Industry Guideline (DG–1104 and NEI 95–10)
- Draft Standard Review Plan for License Renewal (SRP–LR)
- Draft Generic Aging Lessons Learned (GALL) report
- Discussion of **Federal Register** Notice Questions
- Questions and Closing Remarks

Dated at Rockville, Maryland, this 24th day of August, 2000.

For the Nuclear Regulatory Commission.

**David B. Matthews,**

*Director, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

## Proposed Guidelines for Including Industry Initiatives in the Regulatory Process

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of opportunity for public comment.

**SUMMARY:** The NRC staff has developed proposed guidelines to ensure that future industry initiatives would be treated and evaluated in a consistent and predictable manner. The proposed guidelines would allow industry initiatives to play an important role in achieving the NRC's regulatory goals of maintaining safety, reducing unnecessary regulatory burden, improving efficiency, effectiveness, and realism, and improving public confidence. The NRC staff is soliciting stakeholder comments from interested parties related to the proposed guidelines for including industry initiatives involving nuclear power reactor licensees in the regulatory process.

**DATES:** Comment period expires October 16, 2000. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

**ADDRESSEES:** Submit written comments to Chief, Rules and Directives Branch, Division of Administrative Services, U.S. Nuclear Regulatory Commission, Mail Stop T6-D69, Washington, DC 20555–0001. Written Comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland, from 7:45 am to 4:15 pm, Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Jack Foster or Eric Benner, Division of Regulatory Improvements Programs, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: 301–415–3647 or 301–415–1171. email *jwf@nrc.gov* or *ejb1@nrc.gov*

**SUPPLEMENTARY INFORMATION:**

### Background

The Nuclear Regulatory Commission (NRC), by a staff requirements memorandum (SRM) dated June 28, 2000, approved issuing for public comment proposed guidelines for including industry initiatives in the regulatory process, as described in SECY–00–0116, ''Industry Initiatives in the Regulatory Process,'' dated May 30, 2000.

The NRC staff has met with stakeholders on several occasions (i.e., on October 27, 1999, in Rosemont, Illinois; on December 21, 1999, and February 17, 2000, in Rockville, Maryland; and, on March 28, 2000, in

Washington, DC during an industry initiatives break-out session at the NRC's Twelfth Annual Regulatory Information Conference) to solicit from stakeholders information and individual views regarding the development of a process to include industry initiatives in the regulatory process. The staff also issued a **Federal Register** notice (FRN) on December 13, 1999 (64 FR 69574) soliciting additional stakeholder comments on both the technical and regulatory aspects relating to the development of guidelines to allow the drafting of a regulatory framework that supports the implementation of industry initiatives, by January 15, 2000. This date was chosen to give the staff sufficient time to incorporate stakeholder comments into the proposed guidelines. No comments were received in response to the FRN. The meeting summaries are available through ADAMS and on the NRC's web page at http://www.nrc.gov/NRC/REACTOR/VII/index.html which has electronic copies of all relevant background material such as meeting notices, summaries, and transcripts; letters to and from the industry; and milestones for implementing the subject activity.

The staff has been advocating the use of industry initiatives for several years, and the industry has responded favorably by forming specialized working groups to address specific technical issues of interest. To date, methods for interaction between the staff and these industry working groups have developed in an ad hoc manner and have generally been quite successful. However, if these interactions are to become an integral part of the regulatory process, the Commission has determined that developing and implementing guidelines for industry initiatives is appropriate.

## Proposed Guidelines for Including Industry Initiatives in the Regulatory Process

The staff has developed the following proposed guidelines for including industry initiatives involving nuclear power reactor licensees in the regulatory process. These proposed guidelines are intended to ensure that future industry initiatives proposed by applicable industry groups (AIGs) would be treated and evaluated in a consistent and controlled manner that is visible and open to all stakeholders. An AIG could be the members of one or more Owners Groups, an industry organization such as the Nuclear Energy Institute (NEI) or the Electric Power Research Institute (EPRI), or two or more licensees. If multiple AIGs individually submit separate initiatives regarding the same issue, all industry initiatives will be addressed pursuant to these guidelines. The nature of issues that may be addressed through industry initiatives are very broad. Therefore, it is intended that the following guidelines provide flexibility in allowing the staff, AIGs, and other stakeholders to interact in pursuing industry initiatives. However, these guidelines provide the staff with a structured framework for processing issues from their identification through implementation to resolution. It is intended that, by promoting a consistent, controlled and visible process, these guidelines will assure that safety is maintained while providing for efficient and effective use of resources, reduced unnecessary regulatory burden and enhanced public confidence.

In addition, it is important to note that these guidelines reference other existing NRC policies and procedures (e.g., generic communications, SECY–99–143; commitment tracking, SECY–00–0045; inspection/oversight, SECY–00–0049; enforcement policy, SECY–00–0061 and SECY–99–219; commitment policy, SECY–98–224; and, fees policy, 10 CFR Parts 170 and 171, among others). It is not the intent of these guidelines to create any new policies or procedures in those areas. The most recent version of the applicable NRC policies and procedures should be utilized when implementing these guidelines.

## Description and Examples of Industry Initiatives Process

The following describes the actions associated with each numbered step indicated in the ''Industry Initiatives Process'' flowchart, below. For the purpose of these guidelines, there are two types of industry initiatives, Type 1 and Type 2. Type 1 industry initiatives are further subdivided into two parts. Industry initiatives are defined as:

*Type 1:* Initiatives developed by AIGs in response to some issue of potential regulatory concern (a) to substitute for or complement regulatory actions for issues within existing regulatory requirements, or (b) which are potential cost beneficial safety enhancement issues outside existing regulatory requirements;

*Type 2:* Initiatives developed by AIGs to address issues of concern to the applicable industry group but that are outside existing regulatory requirements and are not cost beneficial safety enhancements, or that are used as an information gathering mechanism.

*Type 1 Industry Initiative Examples*

A Type 1a example of an existing program that compliments existing regulatory requirements via an industry initiative is the Boiling Water Reactor Vessel and Internals Project (BWRVIP). This program, in which all U.S. BWR licensees participate, was instituted in 1994 to address the potential consequences of intergranular stress corrosion cracking (IGSCC) in the BWR core shroud. It subsequently expanded in scope to address all BWR austenitic stainless steel and Alloy 600 safety-related components, the reactor vessel, and safety-related piping. This industry-led program developed approximately 50 generic industry guidelines for inspection scope and frequency, flaw evaluation, and mitigation and repair. All BWR owners committed to adhere to the program or inform the staff of any plant-specific deviations. Further, since the BWRVIP representatives agreed which components are safety-related, actions taken to inspect, evaluate, and repair these components are covered by the individual licensee's 10 CFR Part 50, Appendix B, quality assurance (QA) program.

A second Type 1a industry initiative example is the framework for managing steam generator (SG) tube integrity associated with NEI–97–06, ''Steam Generator Program Guidelines.'' This industry initiative will involve license amendments by all pressurized water reactor (PWR) licensees to change from deterministic to performance-based technical specifications. In response to the staff's ongoing regulatory development effort, the PWR industry focused its efforts on improving existing SG inspection guidance and developing additional guidelines on other programmatic elements related to SG tube integrity. The industry's efforts to improve industry guidance culminated in the NEI 97–06 industry initiative, developed through the NEI Nuclear Strategic Issues Advisory Committee, which establishes a framework for structuring and strengthening existing SG programs. This industry initiative discusses regulatory interfaces, licensee responsibilities, and a protocol for revising referenced guidelines. It also defines the performance criteria that licensees shall use to measure tube integrity. It should be noted that the final staff review of NEI–97–06 is still in progress.

An example of a Type 1b industry initiative is the NEI guidelines that have been provided to licensees to address shutdown risks. This risk-significant issue is not explicitly required by existing regulations. The staff, using an

older version of NUREG/BR–0058 which did not allow any credit for industry initiatives, found this issue to be valid for backfitting as a safety enhancement pursuant to 10 CFR 50.109. The rulemaking was discontinued since the Commission concluded that existing industry practices provide an adequate level of safety. The Commission also directed that NUREG/BR–0058 be updated to permit appropriate credit for industry initiatives. No enforcement would presently be appropriate.

*Type 2 Industry Initiative Examples*

A Type 2 industry initiative addresses issues that are not related to a regulatory requirement and do not address a safety concern (e.g., productivity, balance of plant system performance, or resource management). An example is site access authorization, in which industry representatives determined that a common approach would be beneficial. In this case, the staff and stakeholders participants agreed that a commitment to the NRC regarding the industry initiative was unnecessary, and inspections and enforcement are not applicable.

A second example of a Type 2 industry initiative is one developed for information gathering purposes. In some cases, it may be necessary to collect additional information to better understand the significance of an emerging issue and how to address it in an efficient and effective manner. In this case, the information that is collected would be included in the industry initiative action plan. Alternately, any NRC activities to collect information would be conducted in accordance with the guidance provided in SECY–99–143, ''Revisions to Generic Communication Program,'' and the applicable rules and regulations referenced therein.

*Box 1—Issue Identification*

There are many ways that an emerging issue, potentially suitable for being addressed via an industry initiative, may be identified. These include the NRC staff being informed by the AIGs, the public, another government entity (domestic or foreign), through the staff's own investigations (e.g., inspection, event assessment, or research studies), or other means. It is intended that a broad range of information sources be considered in identifying issues of concern.

However, it is important to note that some issues may fall into other NRC processes (e.g., allegations or petitions submitted pursuant to 10 CFR 2.206), and care should be taken to make sure that such issues are properly characterized and assigned to the appropriate process for dispositioning. Issues arising from allegations or petitions may be resolved in the longer term by use of an industry initiative, but are not initially considered to be candidates for an industry initiative.

Emerging issues should be documented and the staff's preliminary evaluation of the technical and policy implications presented to the Office of Nuclear Reactor Regulation's (NRR) Executive Team (ET) for review and initial dispositioning (see Box 2, below). The staff's preliminary evaluation of the technical and policy implications of the emerging issue would include consideration of:

(a) Whether or not the issue is an adequate protection issue,

(b) Whether or not there is an immediate safety concern,

(c) Which plants (types or specific plants) could the issue potentially involve,

(d) The likelihood that AIGs would pursue resolution through an industry initiative,

(e) If AIGs decide that the issue is appropriate for resolution through an industry initiative, should the resolution be handled through a Type 1 or Type 2 industry initiative,

(f) If an industry initiative is not pursued, what other regulatory process would be appropriate,

(g) Types of staff work that would be involved in resolving the issue (e.g., prior review and approval, monitoring, inspection, etc.),

(h) Estimate of staff resources required for industry initiative and other options,

(i) Whether or not a backfit potential is involved,

(j) Whether or not the issue involves an allegation or petition submitted pursuant to 10 CFR 2.206,

(k) Assessment against the outcome goals,

(l) Plans for stakeholder involvement,

(m) Options for how the plants could resolve the issue,

(n) Need for periodic reports to monitor licensee implementation of industry initiative, and

(o) Need for Commission notification and followup.

Other factors of consideration would be included, as appropriate. Similarly, factors that industry or other stakeholders identify should be documented (e.g., letter to the Director of NRR), then reviewed as above.

In developing an emerging issue, it may be appropriate to hold public meetings and/or workshops to obtain additional information and individual views regarding the issue from appropriate stakeholders. However, meetings and/or workshops held during this phase of the process should be primarily for the purpose of understanding the issue in order to facilitate the rest of the process presented in these guidelines, and should not involve significant commitments of staff resources.

The public should be notified of the issue, either by press release, generic communication, weekly highlight, or other appropriate media. At a minimum, any meetings and/or workshops should be noticed in a timely manner and open to the public to allow public participation (see Public Participation, below).

*Box 2—NRR ET Approval To Pursue Issue*

The staff's initial evaluation of the issue is reviewed by the NRR ET to ensure that the emerging issue is of sufficient importance either to meet with the AIGs and other stakeholders to present the NRC staff's views on the appropriateness of addressing an emerging issue as an industry initiative, or to immediately pursue regulatory action, if justified (see Box 4, below). The staff''s evaluation, as presented to the NRR ET, should include, to the extent possible:

(1) Identification of applicable regulatory requirements (e.g., regulations, technical specifications, design bases, commitments),

(2) Safety significance from both a deterministic and probabilistic risk assessment perspectives,

(3) Limitations in the amount of information available or ability to characterize the issue,

(4) An assessment of the impact of the industry initiatives on other NRC organizations and a discussion of how those organizations will be involved in the further evaluation of the industry initiative, and

(5) Staff recommendations.

It is recognized that, in the early stages of issue development, additional information may be necessary to fully characterize or quantify the issue and that information presented at this stage may be somewhat preliminary and qualitative in nature. The NRR ET will render a decision on whether to: (1) Not pursue the issue (see Box 3, below), (2) pursue the issue on an expedited basis (see Box 4, below) or, (3) pursue the issue via an industry initiative.

Consistent with the definitions provided in SECY–99–063, ''The Use by Industry of Voluntary Initiatives in the Regulatory Process,'' SECY–99–143, ''Revisions to Generic Communication Program,'' and these guidelines, many issues can be addressed through an

industry initiative. However, those issues that involve matters of adequate protection shall not be addressed via the process provided in these guidelines.

*Box 3—Not Pursue Issue*

The NRR ET may decide that the issue does not need to be pursued. This decision would consider both the safety significance and the existing regulatory bases, and should be documented in a memorandum from the sponsoring organization (e.g., division) to the Director, NRR. If the issue is one identified by an AIG or other stakeholder, the AIGs and other interested stakeholders should be informed in writing of the decision and its bases.

The NRR decision to not pursue an issue at this time would not preclude the AIGs or individual licensees from pursuing an issue through other avenues.

*Box 4—Pursue Issue Resolution on an Expedited Basis*

Some issues may need to be handled in a more expeditious manner than is possible by an industry initiative. Some considerations that may be taken into account when determining the urgency of an issue may include the level of risk involved and the need for prompt corrective action. In the event that the NRR ET determines that the issue requires expedited action, approaches could be taken that include activation of the appropriate Owners Group's Regulatory Response Group (RRG), issuance of orders, or issuance of a bulletin, as described in SECY–99–143. The staff may defer formal regulatory actions while the appropriate Owners Group's RRG is activated to address the issue. The AIGs, stakeholders and the public are kept informed through public meetings or other appropriate media, as described in the Communications Plan, below.

*Box 5—Establish Industry Initiative*

If an expedited resolution is unnecessary and the NRR ET determines to pursue the issue through an industry initiative, a letter would be sent from the NRR Director to the identified AIGs and other interested stakeholders. These letters will include a description of the issue, provide appropriate references and background information, identify the NRC contact for the issue (see Project Management, below), and propose that an initial public meeting or workshop be scheduled to share information on the issue. The AIGs would be invited to evaluate the issue and to develop a proposal for addressing the issue, which would be presented to the staff and other stakeholders at the proposed initial public meeting/workshop. Stakeholders would be invited to provide individual views regarding the issue and any proposed actions. The staff will need to evaluate the AIG's proposal, and any stakeholders comments or proposals, before any further meetings and/or workshops on the issue are held.

The public would be informed of meetings and/or workshops held on this issue, and would be encouraged to attend and/or provide input (see Public Participation, below).

Since many different approaches may be used to resolve the issue, multiple meetings and/or workshops may be needed at this point in the process in order to exchange information, present proposals from the stakeholders, and to receive individual views on the possible options for resolution of the issue. These interactions would include the NRC, AIGs and other stakeholders. The objectives are to better understand the issue, and to establish an industry initiative action plan with tasks, milestones, resources required, and responsible parties, to be utilized by the AIGs in pursuing issue resolution. The AIGs industry initiative action plan should provide the basis for pursuing the issue as an industry initiative, and the need, as appropriate, for licensee commitments to the industry initiative. The staff should establish its own industry initiative action task plan. An industry initiative communications plan should also be developed by the staff. Schedules should be established consistent with the significance of the issue.

In some cases, it may be necessary to collect additional information to better understand the significance of an emerging issue and how to address it in an efficient and effective manner. Information needs could be addressed in the industry initiative action and communication plans, or may require some affirmative action on the part of NRC. Any NRC activities to collect information would be conducted in accordance with the guidance provided in SECY–99–143 and the applicable rules and regulations referenced therein. Any voluntary information collections are subject to Paperwork Reduction Act considerations and will be coordinated with the Offices of the Chief Information Officer (OCIO) and the General Counsel (OGC).

Possible approaches to resolving the issue could include actions such as development and implementation of an industry program, voluntary license amendments, revision of industry guideline documents, modifications to codes and standards, or creation of a Generic Safety Issue (GSI). In general, the intent would be to accomplish the issue resolution in the most efficient and effective manner.

*Box 6—Regulatory Acceptance of the Proposed Industry Initiative*

The NRC staff should consider the proposed industry initiative action and communications plans developed in Box 5 as part of the Planning, Budgeting and Performance Management (PBPM) ''add/shed'' budgeting process. The review should consider the background of the issue and the details of the industry initiative action and communications plans that have been developed, including the proposed actions, milestones, resources and responsible parties. The review should address how the industry initiative action and communications plans supports the NRC's goals of maintaining safety, reducing unnecessary burden, improving public confidence, and enhancing efficiency and effectiveness, and should be documented.

If the industry initiative action and communications plans developed in Box 5 are found acceptable by the NRR ET, implementation of the industry initiative action and communications plans will proceed as described in Boxes 8 and 9.

If the industry initiative action and/or communications plans developed in Box 5 are found unacceptable, the issues leading to rejection of the industry initiative action and/or communications plans should be publically communicated to the AIGs and other stakeholders. If an acceptably revised industry initiative action and/or communications plans cannot be developed, the NRC will consider the need for further regulatory action (see Box 7, below).

The staff's acceptance or rejection of a proposed industry initiative will be published in the **Federal Register** and placed on the NRC's web page, and the Commission will be informed through appropriate means.

*Box 7—Determine Appropriate Regulatory Action*

If the staff does not accept the AIG's proposed actions to be taken, an individual licensee in the AIG does not commit to the industry initiative, or if AIG member licensees fail to implement the committed-to actions, the NRC staff may independently take action. After having determined that the Type 1 industry initiative issue involves either a needed safety enhancement and/or compliance with existing Rules and/or

regulations, the staff should take regulatory actions (e.g., rule-making, issuing appropriate generic communications, orders, etc.) to appropriately address this issue, as needed. Any regulatory actions taken would be determined consistent with existing Regulations and NRC policy and procedures. For items requiring a backfit analysis per 10 CFR 50.109, crediting of the industry initiative would follow the position in NUREG/BR–0058, Revision 3, ''Regulatory Analysis Guidelines of the U.S. Nuclear Regulatory Commission,'' or the latest applicable guidance. The public should be kept informed, through public meetings or other appropriate media, while the staff develops these regulatory actions.

*Box 8—Implementation of Industry Initiative*

Once approved, the industry initiative action and communications plans developed in Box 6 should be implemented by the AIGs and monitored by the staff. The milestones in the AIG's industry initiative action plan should be documented in the staff's task action plan, tracked in the NRR Director's Quarterly Status Report (DQSR), and incorporated into the NRR Operating Plan, as appropriate. The industry initiative action plan milestones would be monitored via periodic reviews and through periodic public meetings with the AIGs and other stakeholders. NRC acceptance of the industry initiative and associated action and communications plans would be documented in a **Federal Register** notice and a Regulatory Issue Summary (RIS), in accordance with SECY–99–143 (see Communications Plan, below). The public would be kept informed of the progress in completing the industry initiative action plan as outlined in the industry initiative communications plan, and would be encouraged to provide input (see Public Participation, below).

*Box 9—Inspection and/or Monitoring and Enforcement*

Resolution of Type 1a industry initiative issues may require that AIG member licensees implement changes in their programs, technical specifications, or take other actions as established in the industry initiative plan. Inspection and/or monitoring of implementation of these activities would depend on the nature of the activities the AIGs implement to address the issue. Enforcement would be available if violations of regulatory requirements occur.

Resolution of Type 1b industry initiative issues would involve NRC re-assessment of the issue, and of the efficacy of an industry initiative to address the issue. Inspection and/or monitoring of implementation of these activities would depend on the nature of the activities the AIGs implement to address the issue. Enforcement would be available if violations of regulatory requirements occur.

Type 2 industry initiatives involve industry actions outside existing regulatory requirements that are not cost beneficial safety enhancements, or that are used as an information gathering mechanism, and the need for NRC overview is not anticipated, and enforcement action will not be available.

The need for inspection and/or monitoring should be determined consistent with the NRC's Reactor Oversight Process, as described in Inspection Manual Chapter 2515. An inspection and/or monitoring plan will be established on a case-by-case basis, consistent with the requirements associated with implementation of the issue and the revised risk-informed NRC inspection program, as described in the NRC's Inspection Manual 2515. The inspection and/or monitoring plan would include a decision making process on whether to alter the baseline inspection program or develop a temporary instruction (TI) that will look at risk significance, resources, cornerstone attributes, performance indicator (PI) implications, etc., in determining whether additional inspections are needed. Special inspections or monitoring of the progress may not be necessary, and in most cases it is expected that it will not be, based on the nature of the actions taken. For example, it is expected that many licensee activities will already be adequately covered by the existing inspection and oversight program. Inspections may be performed either by resident or regional inspectors or special teams to determine if regulatory requirements are met. Monitoring may be performed by either inspectors or NRR project managers (PMs), wherein they would determine that licensees have taken actions committed to be performed as part of the industry initiative. Documentation of inspections or monitoring activities should be in accordance with the NRC Inspection Manual.

If a specific licensee, or the industry group in general, fails to adequately implement the agreed upon actions, this would be addressed by NRC in the context of existing enforcement policy and/or additional regulatory action consistent with the guidance above. Additional discussion on enforcement is found below in the section ''Enforcement Guidelines Consistent with Reactor Oversight Process Improvements.''

**Other Items**

*Project Management*

Once it has been decided to pursue resolution of an issue via an industry initiative, a lead project manager (LPM) from either NRR's Division of Licensing Project Management (DLPM) or Division of Regulatory Improvement Programs (DRIP), as appropriate, should be appointed. The LPM will be responsible for: (1) Facilitating staff review of the industry initiative, (2) assuring that activities described above are accomplished, and (3) acting as the staff's point of contact between the AIGs, other stakeholders, and other interested members of the public.

A lead technical reviewer (LTR) will also be assigned, from either the Division of Engineering (DE), Division of Systems Safety and Analysis (DSSA), Division of Inspection Programs Management (DIPM), or DRIP, as appropriate. The LTR will be responsible for coordinating the technical review of the industry initiative.

**Public Participation**

Ensuring that all stakeholders have an opportunity to participate is essential. As such, the industry initiative communications plan (see below) should be developed to ensure that stakeholders will be notified of the issue, either by press release, generic communication, or other appropriate media. The stakeholders will be given an opportunity to provide their individual views on the industry initiative action plan, and to participate in all NRC-sponsored meetings and/or workshops on the industry initiative. At a minimum, any meetings and/or workshops would be noticed on the NRC's web pages in a timely manner and open to the public to allow public participation. The industry initiative LPM will be responsible for encouraging interested stakeholders to participate in the process for consideration of the industry initiative, exchanging relevant information with the staff and the AIGs while the industry initiative action and communications plans are being developed, and then implemented.

The staff will disclose to the public all information supplied by or obtained from industry, subject to relevant Freedom of Information Act (FOIA) and Privacy Act exceptions, in support of

the industry initiative. The NRC will also disclose all information supplied by or obtained from industry (subject to relevant FOIA/Privacy Act exceptions) that it uses to assess (1) the quality of implementation of the industry initiative by licensees and (2) the effectiveness of the industry initiative in resolving the underlying issues. This disclosure typically will be through the public docketing process.

*Communications Plan*

A communications plan will be developed by the NRC staff for each issue that is being addressed by an industry initiative. The objective of this industry initiative communications plan is to make the industry initiative visible to all stakeholders and to allow easy access to relevant information. Guidance to the staff in this communication plan would include the use of the ADAMS system and an NRC industry initiative web page, that includes:

(1) A summary of the issue;

(2) Meeting announcements and summaries and/or transcripts;

(3) Non-proprietary versions of submitted reports and staff evaluations;

(4) Action plans;

(5) Generic communications (e.g., regulatory issues summaries);

(6) Periodic status reports, press releases, weekly highlights, and/or, other appropriate media, issued in a timely manner to facilitate public participation in the regulatory process; and,

(7) A final resolution summary.

Primary responsibility for implementation of the communications plan will be that of the assigned LPM. The NRC industry initiative web page will be maintained by the assigned LPM.

*Resource Planning, Including Semi-Annual Meetings to Identify Potential Industry Initiatives*

To effectively and efficiently delineate expected resource needs and expenditures for industry initiatives, the staff should publicly meet on a regular basis (approximately twice annually) with industry groups and other stakeholders to obtain information on the status of ongoing and potential future industry initiatives. This could be an additional agenda item on pre-existing public meetings with industry groups and representatives, and will be noticed accordingly. Additional noticed public meetings could be needed to address emerging or unanticipated issues. The purpose of these regularly scheduled public meetings is to provide the NRC staff with information that will support budgeting and resource planning, and any required staff resource reallocations. The LPM would have primary responsibility for scheduling, conducting, and documenting these meetings. NRC should address its resource needs using the ''add/shed'' process as part of the PBPM process in order to prioritize resource expenditures.

*Fees*

The agency's fee process, in accordance with 10 CFR Part 170, ''Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services under the Atomic Energy Act of 1954, as Amended,'' allows for the exempting of fees for reviews under § 170.11(a)(12), Exemptions. Specifically, this paragraph states that:

No application fees, license fees, renewal fees, or inspection fees shall be required for: A performance assessment or evaluation for which the licensee volunteers at the NRC's request and which is selected by the NRC.

There would be no licensee-specific charges associated with the generic staff review of an industry initiative.

*Tracking of Commitments Consistent with Existing Regulatory Processes*

Tracking of licensee commitments made in accordance with the industry initiative action plan, if any, will be handled by the individual licensee's NRR PM and the industry initiative LPM in accordance with SECY–00–0045. The NEI guidelines, referenced therein, provide recommended actions for licensees' management, implementation and documentation of commitments (Sections 2, 3, 4 and 5). The guidelines were found acceptable by the staff. Related correspondence would be made publicly available, as appropriate.

*Enforcement Guidelines Consistent with Reactor Oversight Process Improvements*

Licensee activities implemented as the result of an industry initiative may or may not be enforceable, depending upon the nature of the issue being addressed. Licensee actions resulting from an industry initiative that are necessary to maintain compliance with an existing regulatory requirement would be enforceable. If an industry initiative program addresses issues outside current regulatory requirements, or is for information gathering, it is not enforceable. If it is determined that licensees are not implementing the industry initiative products as they have committed to, appropriate enforcement actions, if any, consistent with the guidance described below, will be taken by the staff, when appropriate.

PROPOSED ENFORCEMENT GUIDELINES FOR LICENSEES FOR INDUSTRY INITIATIVES*

| Type of industry initiative | Industry action | Enforcement guidance |
|---|---|---|
| 1.a. Industry initiatives to address issues that substitute for or complement regulatory actions for issues within existing regulatory requirements (e.g., BWRVIP, NEI SG Guidelines). | AIGs develop and implement program, with associated licensee commitments, that is included in appropriate documents (e.g., technical specifications, updated final safety analysis report, and/or plant procedures), and controlled by applicable regulatory requirements (e.g., 10 CFR Part 50, Appendix B program, 10 CFR 50.59, or Section 182 of the Atomic Energy Act), if any. | If licensee does not implement the activities resulting from the industry initiative, and its actions are not consistent with applicable regulatory requirements, if any, enforcement is available. The severity of the violations would be established consistent with revised reactor oversight process and the enforcement policy. |

PROPOSED ENFORCEMENT GUIDELINES FOR LICENSEES FOR INDUSTRY INITIATIVES*—Continued

| Type of industry initiative | Industry action | Enforcement guidance |
|---|---|---|
| 1.b. Industry initiatives to address potential cost beneficial safety enhancement issues outside existing regulatory requirements (e.g., shutdown risks, severe accident management). | AIGs develop and implement program, with associated licensee commitments. | Commitment to industry initiative by licensee is only link to NRC. Deviation or re-direction from committed program would cause NRC re-assessment of issue, and of the efficacy of an industry initiative to address the issue. Orders or rule-making are available as an option if 10 CFR 50.109 criteria for backfitting as a safety enhancement are satisfied; if reasonable assurance criteria are undermined, there is no need to further satisfy backfit criteria. Credit for industry initiative would be considered in a backfit analysis, consistent with Commission guidance to SECY–99–178, ''Treatment of Voluntary Initiatives in Regulatory Analysis,'' dated May 21, 1999. |
| 2. Industry initiatives for issues that are outside of regulatory requirements, not cost beneficial safety enhancements, or that are used as an information gathering mechanism. | AIGs develop and implement program ..... | No NRC overview or enforcement expected to be needed on program.* |

* Issues that involve adequate protection are outside the scope of industry initiatives.

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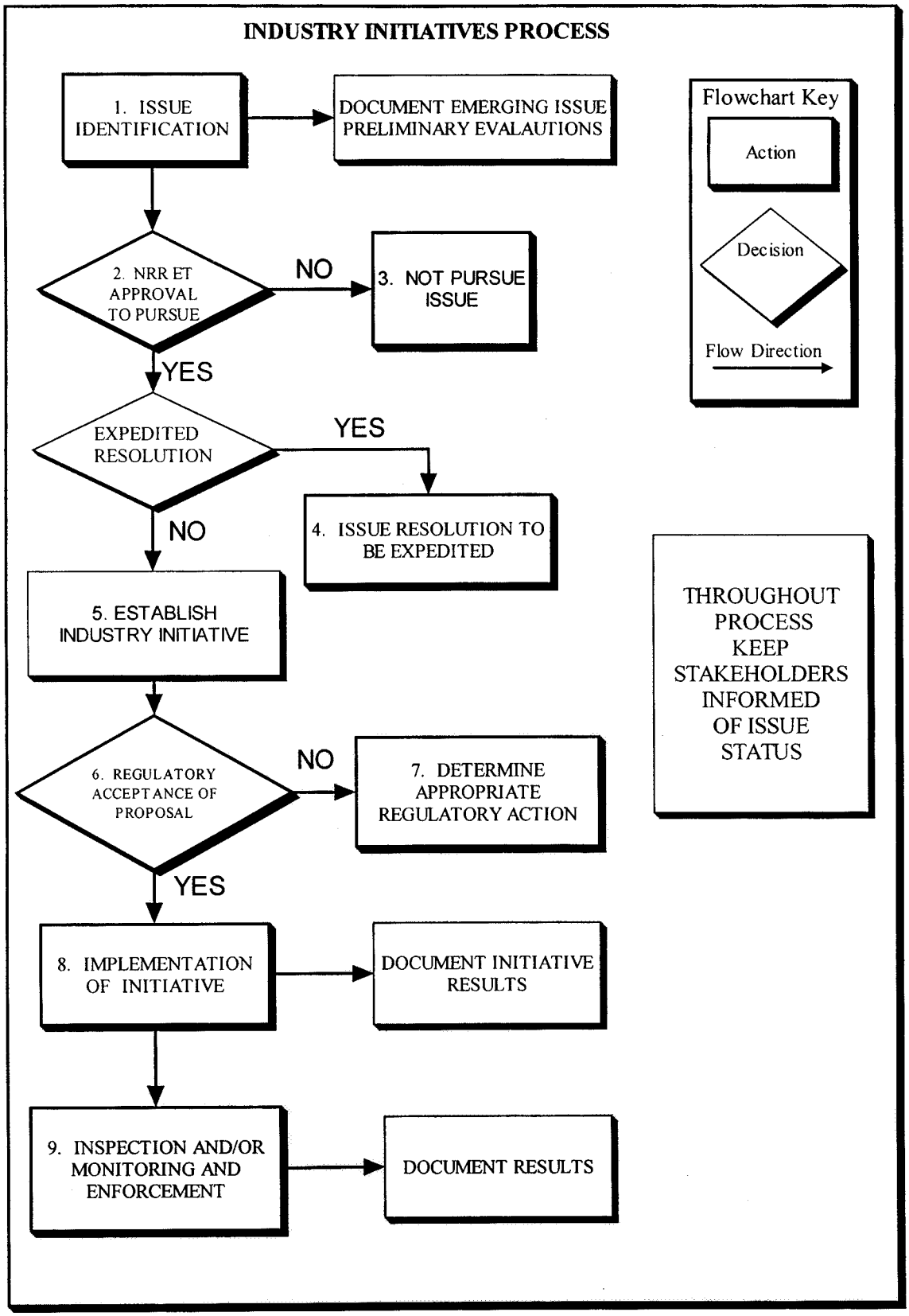
INDUSTRY INITIATIVES PROCESS
1. ISSUE IDENTIFICATION
DOCUMENT EMERGING ISSUE PRELIMINARY EVALAUTIONS
Flowchart Key
Action
Decision
Flow Direction
2. NRR ET APPROVAL TO PURSUE
NO
3. NOT PURSUE ISSUE
YES
EXPEDITED RESOLUTION
YES
4. ISSUE RESOLUTION TO BE EXPEDITED
NO
5. ESTABLISH INDUSTRY INITIATIVE
THROUGHOUT PROCESS KEEP STAKEHOLDERS INFORMED OF ISSUE STATUS
6. REGULATORY ACCEPTANCE OF PROPOSAL
NO
7. DETERMINE APPROPRIATE REGULATORY ACTION
YES
8. IMPLEMENTATION OF INITIATIVE
DOCUMENT INITIATIVE RESULTS
9. INSPECTION AND/OR MONITORING AND ENFORCEMENT
DOCUMENT RESULTS

Dated at Rockville, Maryland this 16th day of August, 2000.

For the Nuclear Regulatory Commission.

**David B. Matthews,**

*Director, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.*

[FR Doc. 00–22496 Filed 8–30–00; 8:45 am]

**BILLING CODE 7590–01–C**

## SECURITIES AND EXCHANGE COMMISSION

**[Rel No. IC–24620; File No. 812–11830]**

## Provident Mutual Life Insurance Company, et al.

August 24, 2000.

**AGENCY:** The Securities and Exchange Commission (''Commission'').

**ACTION:** Notice of application for an order pursuant to section 6(c) of the Investment Company Act of 1940 (''Act'') granting exemptions from the provisions of Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder, to permit the recapture of credits applied to contract account value and to premium payments made under certain variable annuity contracts.

*Applicants:* Provident Mutual Life Insurance Company (''PMLIC''), Provident Mutual Variable Annuity Separate Account (''PMLIC Account''), Providentmutual Life and Annuity Company of America (''PLACA''), Providentmutual Variable Annuity Separate Account (''PLACA Account''), and 1717 Capital Management Company (''1717 Capital'').

*Summary of application:* Applicants seek an order of the Commission, pursuant to section 6(c) of the Act, exempting them from sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder, to the extent necessary to permit the recapture of certain credits applied to contract account value and to premium payments made in consideration of: (1) certain deferred variable annuity contracts, described herein, that PLACA plans to issue (the ''Contracts''), or (2) variable annuity contracts that are substantially similar to the Contracts in all material respects that PLACA may issue in the future (''Future Contracts''). Applicants also seek an order of the Commission, pursuant to section 6(c) of the Act, exempting (1) variable annuity separate accounts, other than the PLACA Account, that PLACA has established or may establish in the future (''Future Accounts''), (2) variable annuity separate accounts, including the PMLIC Account, that PMLIC has established or may establish in the future (also, ''Future Accounts''), and (3) principal underwriters for such Future Accounts that are under common control with PLACA or PMLIC and that are registered as a broker-dealer under the Securities Exchange Act of 1934 and a member of the National Association of Securities Dealers, Inc. (''NASD'') (''Future Underwriters''), from sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder, to the extent necessary to permit the recapture of certain credits applied to contract account value and to premium payments made in consideration of variable annuity contracts issued in the future by PLACA or PMLIC through a Future Account that are substantially similar in all material respects to the Contracts (also, ''Future Contracts'').

*Filing Date:* The application was filed on November 1, 1999, and amended and restated on February 23, 2000. A second amended and restated application was filed on August 22, 2000.

*Hearing or Notification of Hearing:* An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 18, 2000, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants, c/o James G. Potter, Jr., Esq., Provident Mutual Life Insurance Company, 1000 Chesterbrook Boulevard, Berwyn, PA 19312.

**FOR FURTHER INFORMATION CONTACT:** Jane G. Heinrichs, Senior Counsel, at (202) 942–0699, or Keith E. Carpenter, Branch Chief, at (202) 942–0679, Office of Insurance Products, Division of Investment Management.

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (telephone (202) 942–8090).

### Applicants' Representations

1. PLACA is a stock life insurance company originally incorporated under the laws of the Commonwealth of Pennsylvania in 1958, and redomiciled as a Delaware insurance company in 1992. It is a wholly owned subsidiary of PMLIC, PLACA is licensed to do business in 48 states and the District of Columbia. As of December 31, 1998, PLACA had assets of approximately $1.5 billion. for purposes of the Act, PLACA is the depositor and sponsor of the PLACA Account as those terms have been interpreted by the Commission with respect to variable annuity separate accounts.

2. PLACA established Account on May 9, 1991, as a segregated investment account under Pennsylvania law.[1] Under Delaware law, the assets of the PLACA Account attributable to the Contracts through which interests in the Account are issued are owned by PLACA but are held separately from all other assets of PLACA for the benefit of the owners of, and the persons entitled to payment under, those Contracts. Consequently, such assets are not chargeable with liabilities arising out of any other business that PLACA may conduct. Income, gains and losses, realized or unrealized, from each subaccount of the PLACA Account, are credited to or charged against that subaccount without regard to any other income, gains or losses of PLACA. The PLACA Account is a ''separate account'' as defined by Rule 0–1(e) under the Act, and is registered with the Commission as a unit investment trust.[2]

2. The PLACA Account currently is divided into thirty-six subaccounts. Each subaccount invests exclusively in shares representing an interest in a separate corresponding investment portfolio (each, a ''Portfolio'') of one of several series-type open-end management investment companies. The assets of the PLACA Account support several varieties of variable annuity contracts, including the Contracts, and interests in the PLACA Account offered through such contracts are registered under the 1933 Act on Form N–4.[3]

PMLIC is a mutual life insurance company chartered by the Commonwealth of Pennsylvania in 1865. PMLIC is authorized to transact life insurance and annuity business in

[1] Because PLACA redomesticated as a Delaware insurance company in 1992, the PLACA Account is not subject to regulation by the Delaware insurance department.

[2] File No. 811–6484.

[3] File No. 333–88163. Two older registration statements are in effect for other contracts under the PLACA Account, File Nos. 33–65195 and 33–65512.