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June 9, 2000

Mr. David L. Meyers  
Chief, Rules and Directives Branch  
Office of Administration  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

**Re: Draft Regulatory Guide DG-1095, "Guidance for Implementation of 10 CFR 50.59, 'Changes, Tests and Experiments'"**

Dear Mr. Meyers:

On April 25, 2000, the U.S. Nuclear Regulatory Commission published in the *Federal Register* Draft Regulatory Guide DG-1095, "Guidance for Implementation of 10 CFR 50.59, 'Changes, Tests and Experiments.'" DG-1095 proposes to endorse the draft industry implementation guidance, Nuclear Energy Institute ("NEI") 96-07, Revision 1, as an acceptable means of meeting the new rule, with certain exceptions and clarifications. We submit this letter on behalf of the Licensing and Design Basis Clearinghouse ("Clearinghouse"),<sup>1</sup> endorsing DG-1095 and supporting the industry comments submitted by NEI.

Overall, we commend the regulatory process that has enabled the examination and resolution of several issues related to the implementation of the revised 10 C.F.R. § 50.59. Further to that process, we wish to emphasize certain points. In the draft regulatory guide, the NRC Staff is proposing clarifications in four areas: (1) the screening process on changes that affect design function; (2) the relationship between the 10 CFR § 50.59 process and the maintenance rule 10 CFR § 50.65(a)(4) assessments; (3) increases in the likelihood of malfunction of systems, structures, or components ("SSC"); and (4) licensee use of a different method and considering it as being approved by the NRC for the intended application.

<sup>1</sup> The Licensing and Design Basis Clearinghouse is a consortium of nuclear utility licensees representing approximately 22 nuclear power plants.

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In this context, there are certain issues that we believe are particularly significant for assuring a clear and rationale application of Section 50.59, and a clear and defined licensing basis for licensees with respect to actions that warrant assessment for the applicability of or a review under Section 50.59. Accordingly, we would like to emphasize our support for certain elements of the industry comments. First, DG-1095 sections 1.1.2, 1.1.3 and 1.14 state that changes affecting any SSC function described in the Final Safety Analysis Report ("FSAR") should be "evaluated," not just screened. We agree with the industry view that this position would result in licensees performing, documenting, and reporting to NRC numerous unnecessary 10 CFR § 50.59 evaluations for changes that do not meet any of the criteria for requiring prior NRC approval.

The 10 CFR § 50.59 screening review examines the effects of the change on design functions, methods used to perform or control design functions, and evaluations that demonstrate that intended design functions will be accomplished. Not all SSCs described in the FSAR perform, support or impact functions credited in the safety analyses. Therefore, for many changes, the 10 CFR § 50.59 screening review is sufficient to determine that no prior NRC approval is required.

We also strongly support the industry position on DG-1095 section 1.1.6, which also concerns the 10 CFR § 50.59 screening process. Engineering assessments are performed for virtually all proposed changes, tests and experiments. The proposed regulatory position in section 1.1.6 would negate the screening process and require formal 10 CFR § 50.59 evaluations for nearly all activities, a significant waste of utility and Staff resources. Therefore, we support the proposed revisions to section 4.2.1 of NEI 96-07.

We appreciate the opportunity to comment on this significant regulatory guidance. If you have any questions, please feel free to contact us at (202) 371-5737 or (202) 371-5838.

Sincerely,

William A. Horin  
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Counsel to Licensing and Design Basis  
Clearinghouse