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Aug. 31, 2000
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Project Number 694

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OG-00-100

October 12, 2000

Document Control Desk
US Nuclear Regulatory Commission
Washington, DC 20555-0001

Attention: Mr. David L. Meyer, Chief
Rules and Directives Branch
Division of Administrative Services
Office of Administration
US Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Westinghouse Owners Group
**Westinghouse Owners Group Response to Request for Public
Comments on "Proposed Guidelines for Including Industry Initiatives
in the Regulatory Process" (MUHP-4018)**

Reference: Federal Register Notice Volume 65, number 170,
Thursday, August 31, 2000/

The Westinghouse Owners Group (WOG) would like to thank you for this opportunity to comment on the Proposed Guidelines for Including Industry Initiatives in the Regulatory process.

The WOG believes peer review by the industry will help to strengthen these type activities and allows both the NRC and industry to benefit from the final documents. The attachment to this letter provides the WOG comments. Please include these comments in your review process prior to issuing any final guidelines.

If you have any questions regarding these comments, please contact Mr. Brad Maurer, Westinghouse, at (412) 374-4199, or myself at (412) 374-6207 or email at drake1ap@westinghouse.com.

Very truly yours,

Andrew P. Drake,
Project Manager
Westinghouse Owners Group

attachment

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**Comments Regarding Proposed NRC Guidelines
for Including Industry Initiatives in Regulatory Process**

Westinghouse Owners Group

General Comments

1. The industry has been establishing groups that work with the Nuclear Regulatory Commission (NRC) for many years to identify issues and pursue their resolution. The need to formalize this process is not apparent. The structured interface between Applicable Industry Groups (AIGs) and the NRC and others would likely encumber the process of issue resolution, adding cost to manage the increased interfaces and meetings, and significantly extend the time required to define and implement an issue resolution. Typically, emerging issues of the Type 1a variety are addressed in a reactive mode on a lead plant basis not on a proactive, generic basis. On occasion, a subset of Westinghouse Owners Group (WOG) members have jointly made efforts to react to emerging issues that were not applicable to the majority of members' plants. Regardless, the existing regulatory framework has been effective in communicating the need to address various plant conditions in a timely fashion.
2. The proposed guidelines do not provide a strong case for why guidelines for including industry initiatives involving nuclear power reactor licensees in the regulatory process are necessary. The Type 1a initiatives identified in guidelines have been in development for over six years. Also, it is quite possible that if the Type 1 industry initiative involves either a safety enhancement and/or compliance with existing rules and regulations, that the staff will take regulatory actions (e.g., rulemaking, issue appropriate generic communications, orders, etc) in any case.
3. The details for implementing the proposed guidelines involve the use of existing NRC policies and procedures for generic communications, commitment tracking, inspection and oversight with the net effect on AIGs and licensees being an increased regulatory burden to track the new initiatives approved by the Office of Nuclear Reactor Regulation's (NRR) Executive Team (ET). There is no need for this increased regulatory burden.
4. The primary motivation for the Industry to support the development of proposed guidelines for including industry initiatives in the regulatory process would be to preclude the issuance of NRC Bulletins and Generic Letters, and, in the process, optimize the actions necessary to address emerging issues. It can be argued that SECY-99-143, "Revisions to Generic Communication Program" already provides an improved level of discipline and consistency on how emerging issues should be addressed in the regulatory process.
5. Many Owners Group projects are Type 1b (e.g. cost beneficial safety enhancements outside existing regulatory requirements). Existing processes for interacting with the NRC have been effective in the past. WOG's Regulatory Response Group (RRG)/Issues Review Group (IRG) was established to respond to significant emergent issues and has worked very well without need for guidelines like these. Creating a new framework with overtones of enforcement is counterproductive. Use of the guidelines would not make the process more effective or improve the final resolution.

**Comments Regarding Proposed NRC Guidelines
for Including Industry Initiatives in Regulatory Process**

Westinghouse Owners Group

Specific Comments

1. It should be made clear that in defining an industry initiative, there must be a clear understanding and agreement between the industry and the NRC staff that the resolution of an issue qualifies as an industry initiative under this process. This would preclude any unilateral classification by the NRC staff of an industry action that affects more than one plant as an industry initiative. The industry resolves a significant number of issues through changes that impact two or more plants and which are subsequently evaluated for implementation on a plant specific basis under the current regulatory processes (e.g. 50.59). Most of these should not fall into the industry initiative category. The industry should have the prerogative of defining which issues are candidates for industry initiatives under this proposed process.
2. The guidelines imply that licensee commitment will be defined at the initial industry meetings on the emerging issue. This may represent a risk for licensees if they do not participate actively. Total, up front licensee commitment to an industry initiative may not be possible on an expedited basis (especially with the threat of enforcement). Typically, utility commitment to a WOG program involves only the commitment of funds toward its eventual resolution. The approval of funding for a program does not imply any commitment on the part of an individual utility to the implementation of the results of that program.
3. One of the criteria for classification of an industry initiative into either Type 1 or Type 2 is the cost benefit criteria. Those initiatives classified as Type 2 are deemed not to be cost beneficial safety enhancements while those classified as Type 1 are deemed to be "potentially" cost beneficial safety enhancements. However, in the description of the enforcement guidance, the NRC is provided with powers to circumvent the showing of a positive cost benefit as part of the 50.109 criteria for backfitting. In particular, "If reasonable assurance criteria are undermined, there is no need to satisfy backfit criteria". First, the definition of "reasonable assurance criteria" needs to be made. Second, there should be no loop-hole to circumvent the backfit criteria.
4. In the case of new industry initiatives, there is an opportunity for the industry and NRC staff to agree on the cost beneficial status of each initiative under "Box 6 – Regulatory Acceptance of the Proposed Industry Initiative". However, for industry initiatives already completed, there has not always been an assessment of the cost beneficial aspects of the initiative and therefore placement of the initiative into Type 1 or Type 2 is completely subjective on the part of the NRC staff. The case of Severe Accident Management Guidance (SAMG) is a good case in point here. The industry initiative to implement SAMG according to the industry guidance contained in NEI-91-04, Revision 1 was based on the industry position that "this is the right thing to do" as opposed to being a cost beneficial activity. No cost benefit analysis has been completed on SAMG and it is believed that a positive cost benefit showing would not result from any reasonable analysis because core damage frequency (CDF) and large early release frequency (LERF) are not generally impacted by SAMG. Therefore, classification of SAMG as a Type 1b initiative is completely arbitrary. The industry has not had an opportunity to debate the cost beneficial aspects of this initiative.
5. It appears that the process does not allow the AIGs to be present during the NRR ET meeting when it is decided if an issue will be entered into the proposed process. The process should allow the AIGs to be present.

6. Under "Description and Example of Industry Initiative Process," the definition for Type 2 is stated to include initiatives that are "not cost beneficial safety enhancements," while in the same section, under "Type 2 Industry Initiative Examples," it states that they "do not address a safety concern." Wording of the first citation can be interpreted as a negative benefit (detriment) to safety, while the second alludes to neutral initiatives, unrelated to safety. Suggest rewording the initial citation to include initiatives neutral to safety (e.g., "unrelated to safety enhancement").
7. Under "Box 9 - ...", it is indicated that Type 1b initiatives are subject to enforcement, while under "Enforcement Guidelines Consistent with Reactor Oversight Process," it is implied that initiatives "outside current regulatory requirements" (both Type 1b and Type 2) are not enforceable. This is a contradiction, which is not resolved in the following table, where the Enforcement Guidance for Type 1b initiatives does not state whether enforcement is appropriate or not for Type 1b. This needs to be clarified.
8. The guidelines indicate that public meetings and workshops will be held to "develop" the emerging issue and not necessarily resolve it. The little guidance provided leaves open the possibility of extensive time being spent on the definition of an issue and satisfying minority interests that might dilute or subvert the necessary resolution.
9. If the NRR chooses not to pursue an issue as an industry initiative, there should be assurance that the issue would still receive the requisite consideration from the NRC if it is pursued by the industry.
10. Resolutions for a Type 2 issue can be implemented at the discretion of licensees. Since this type of activity would remain within the sole domain of the licensees and not be related to the regulatory process, this category is not needed.

OG-00-100
October 12, 2000

cc: D.L. Meyer, USNRC (1L, 1A)
Westinghouse Owners Group Primary Representatives (1L, 1A)
Systems and Equipment Engineering Subcommittee (1L, 1A)
Steering Committee (1L, 1A)
F. Madden, NEI (1L, 1A)