



NUCLEAR ENERGY INSTITUTE

14800

Joe F. Colvin
PRESIDENT AND
CHIEF EXECUTIVE OFFICER

August 28, 1998

The Honorable Shirley A. Jackson
Chairman
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dear Chairman Jackson:

This letter is in response to your request that the nuclear industry provide you with some areas in which changes could be made to the regulations in order to improve their focus on safety, while at the same time reducing the burden on licensees. As you are aware, the industry has previously provided similar information in the past, and we are pleased to have the opportunity to do so again.

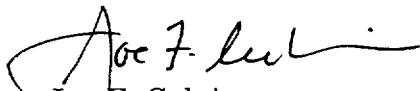
Unfortunately, the current NRC review process is often a major impediment to achieving effective or expedient change, and, in fact, serves to dissuade the industry from proposing additional changes. We would suggest that a thorough examination of the agency's review process could bear fruit in determining the steps needed for improvement.

Enclosed is a description of several examples of industry-proposed regulatory changes that have been pending before the agency for a considerable time. These items could serve as case studies for a task analysis to identify ways to improve both the effectiveness and efficiency of the review process. The quality assurance item has a particularly long history that is especially disappointing to the industry -- as I am sure it is to you -- as it was viewed by both the industry and the NRC as an opportunity to make a substantive improvement in the safety focus of a major regulation.

Sincerely,

SEP 08 10:52

REC'D BY SECT


Joe F. Colvin
Enclosure

- c: The Honorable Nils J. Diaz, Commissioner, NRC
- The Honorable Edward McGaffigan, Jr., Commissioner, NRC
- Mr. L. Joseph Callan, Executive Director for Operations, NRC

**LONG-STANDING INDUSTRY-PROPOSED
REGULATORY CHANGES
(as of August 28, 1998)**

QUALITY ASSURANCE

Appendix B to 10 CFR 50 Appendix B provides quality assurance criteria for the design, construction and operation of nuclear power plants. These criteria ensure the safety-related functions of systems, structures and components that prevent or mitigate the consequences of postulated accidents that could cause undue risk to the health and safety of the public. NRC's interpretation of the appendix, and the requirements for reporting changes in 10 CFR 50.54(a), have stifled industry's efforts to apply a graded approach, which is an approach based on risk-significance, that would focus resources on those systems, structures and components most significant in preventing or mitigating consequences from postulated accidents. As the chronology below shows, industry has tried for over five years, through pilot projects, draft guidelines, and a rulemaking petition, to reach agreement with the NRC to more appropriately focus safety efforts in quality assurance. NRC's reluctance to accept the results of performance-based experience and the insights of mature risk analysis in quality assurance programs is disturbing. NRC persistence in deeming almost any change in a quality assurance program as a "reduction in commitment," even when that change improves the quality assurance program effectiveness, is an impediment to moving with risk-informed regulatory approaches.

June 1993

NUMARC (NEI) formed the Appendix B Working Group to coordinate and develop improved methods for implementing 10 CFR 50 Appendix B.

December 1993

NRC introduced the concept of an improved process for quality assurance based on risk-significant insights developed during implementation of the NRC Maintenance Rule. NRC's concept was consistent with the Appendix B Working Group's provisional recommendations.

January - July 1994

Industry-NRC meetings were held to discuss a pilot program for testing quality assurance improvements. NRC visited the pilot plants.

July 1994

Draft industry guideline was forwarded to NRC. It was intended as the basis for the pilot project and was to be revised based on pilot plant experiences.

September 1994

NRC rejected the pilot project guideline. Incorporation of NRC comments into the industry guideline would have added, not reduced, the regulatory burden without improving safety focus.

December 1994

Industry decided to postpone pilot project and instead to petition for rulemaking on Appendix B.

April 1995

Draft rulemaking petition was sent by the industry working group to the industry for comment.

June 1995

Petition on 10 CFR 50.54(a) submitted to the NRC. The proposed rule change would allow a licensee to make changes to its Appendix B quality assurance program without NRC prior approval, providing the change did not introduce an unreviewed safety question or result in a change to the Technical Specifications. The proposed change would allow a licensee to implement a risk-informed, performance-based approach to quality assurance.

September 1995

Petition noticed in Federal Register for public comment.

November 1995

Public and industry responded to NRC request for comment and additional information. NEI attached a draft guidance document that could become a regulatory guide, thereby trying to ease NRC's work effort and speed implementation.

January - June 1996

NEI-NRC meetings to discuss draft guideline for implementing the petition. Industry offered additional proposals on the guidance that would still meet the intent of the petition, attempting to achieve closure. The pilot utilities continued to interact with NRC in attempting to make improvements to their quality assurance program descriptions. Based on industry-NRC discussions, the industry published NEI 96-02, Guideline for Implementing a Graded Approach to Quality.

July 1996

Based on pilot project interactions and industry-NRC interactions on a risk-informed, performance-based approach to quality assurance, industry developed a draft revision to NEI 96-02 and forwarded the guideline to NRC for comment.

October 1996

Industry requested a meeting with NRC senior management to discuss graded (performance-based) quality assurance to determine how NRC concerns could be

resolved in a manner that would result in a quality assurance process that was better focused on safety significant matters and was more efficient and effective.

February 1997

Four months later, industry met with NRC senior management (Director NRR) to discuss the need to address the 1995 rulemaking petition and come to final resolution on a risk-informed, performance-based approach to quality assurance.

Current Status (August 1998)

NRC decision on petition for rulemaking submitted in June 1995 still pending.

EMERGENCY PREPAREDNESS PROGRAMS (10 CFR 50.54(q))

Licensees cannot change their emergency preparedness plans without prior NRC approval if the change is deemed to have "reduced the effectiveness" of the plans (even if the changed plans are judged to remain effective and are in full compliance with the regulations). There is no useful guidance available to industry to determine what "reduced effectiveness" means. Industry efforts since April 1996 to establish meaningful guidelines have not achieved results, despite the following industry initiatives.

April 1996

Industry provided draft guidance for NRC review at a public meeting. The guidance provided criteria for determining when an emergency plan change may constitute a decrease in the effectiveness of the plan.

September 1997

NEI sent a letter to the NRC asking for review and endorsement of the guidance provided in April 1996.

January 1998

Public meeting held at the request of NEI to discuss status of NRC review. NRC indicated they might be able to provide comments on the industry guidance, but were not ready to endorse it. No timetable was given for providing comments or developing staff guidance.

Current Status (August 1998)

Staff is now preparing guidance for its inspectors but has yet to endorse industry's guidance or provide its own guidance to industry.

FITNESS FOR DUTY RULEMAKING (10 CFR 26)

Fitness for duty programs have been successful in preventing the use of drugs and alcohol at commercial nuclear power plants, and based on feedback, employees recognize the benefits of fitness for duty programs. However, the industry has been trying for seven years to obtain relief from some cumbersome and unnecessary

aspects of the rule. The chronology of attempts to obtain changes that would make the programs more efficient and cost effective, without diminishing the excellent results achieved to date, follow.

April 1991

NUMARC identified 51 specific rule changes in an April 17, 1991 letter to the NRC.

July 1992

NUMARC sent a letter to the NRC dated July 24, 1992, that provided supplementary and clarifying information on the industry's top eight FFD issues.

December 1992

NUMARC sent a letter to Chairman Selin on December 21, 1992, that reiterated industry's request for action on the FFD rule.

May 1996

Some three and a half years later, NRC published a proposed rule to modify FFD requirements on May 9, 1996.

August 1996

Industry provided comments on the proposed rule by letter dated August 7, 1998.

Current Status (August 1998)

Some two years later, industry has been informally advised that a final rule package may be presented to the Committee for the Review of Generic Requirements in September and to the Commission in October 1998.

EVENT REPORTING

Licensees are required to report certain information at certain timeframes to the NRC in accordance with 10 CFR 50.72 and 10 CFR 50.73. The guidance provided by NRC on how to comply with these regulations is not sufficiently clear. Licensees have been cited and civil penalties have been issued because of the unclear guidance. For the past eight years, the industry has been trying to get clear guidance that both the regulator and the licensee can understand and comply with.

1990

Industry and NRC staff initiated activity to clarify event reporting criteria.

1991

A revision to NUREG 1022 was prepared and discussed at NRC sponsored workshop.

1994

Draft NUREG 1022, Revision 1 issued for comment.

December 1997

NRC determined that some valid issues, identified in the 1994 NEI comments, could not be resolved without rulemaking.

January 1998

NRC issues NUREG 1022, Revision 1 as a final document.

July 1998

NRC issues advanced notice of proposed rulemaking.

September 1998

Industry comments due on ANPR.

Current Status (August 1998)

Final rulemaking action not expected for at least two more years.

INITIAL LICENSED OPERATOR EXAMINATION

Over four years ago, a utility requested that it be allowed to prepare the initial licensed operator examination instead of the NRC. The advantage of this approach would be that the exam would reflect the greater specific plant knowledge of the licensee's training and operations departments, and it would also be cost beneficial to the NRC and the licensee. The chronology shows the inability of the NRC to resolve this simple request since April 1994.

August 1994

Virginia Power submitted a Cost Beneficial Licensing Action request that licensees be allowed to prepare the initial licensed operator examination.

March 1995

The NRC staff proposed a revision to the program in SECY-95-075 that would allow licensees to prepare their own exams.

May 1995

Commission approved a pilot program to validate the changes.

April 1996

The NRC staff reported to the Commission that licensees could prepare exams at the right level of difficulty, based on the results of the pilot program and revised guidance.

May 1996

CRGR determined that rulemaking was necessary to allow the change in practice.

August 1997

NRC issues proposed rule for comment.

October 1997

Industry provides comments on proposed rule.

Current Status (August 1998)

Final agency action on proposed rule is pending.