



OFFICE OF THE
GENERAL COUNSEL

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

December 24, 1997

MEMORANDUM TO: Malcolm R. Knapp, Acting Director
Office of Nuclear Regulatory Research

FROM: Francis X. Cameron 
Acting Assistant General Counsel
Rulemaking and Fuel Cycle

SUBJECT: DENIAL OF NEI PETITION ON STANDARD FOR CHANGES TO
QUALITY ASSURANCE PROGRAMS

In a November 12, 1997, Memorandum, you requested OGC concurrence on a draft Commission Paper recommending denial of the Nuclear Energy Institute (NEI) petition for rulemaking on licensee revisions to quality assurance programs. While we do not have any objection to the denial of the petition, we do have concerns in regard to the proposal in the Commission Paper to:

propose a public meeting in the January/February 1998 time frame to entertain proposals for alternative approaches to 10 CFR 50.54(a) revisions which will be acceptable to both the NRC and the industry.

OGC would have a legal objection to the meeting if it were held as proposed in the Commission Paper. We would have no objection to a meeting that might still accomplish your objectives if it was held under a different context. Our concern with the meeting as proposed are as follows. First, if the agency agrees that some changes are needed to the regulation (which is implied in your description of the meeting), even if those changes are not the specific ones proposed by the petitioner, the agency practice is to grant the petition in part and institute a rulemaking, rather than to deny the petition and then to explore what revisions are needed as proposed in the Commission Paper. Second, proceeding with efforts to explore alternative rulemaking changes after denying the petition, would result in the expenditure of resources on a rulemaking that had not been approved by the Commission either through an approved Rulemaking Plan or through the Commission approval of granting the petition.

If the staff believes that rulemaking is necessary on this subject, we would suggest one of two approaches. 1) grant the petition in part and conduct a public meeting to discuss alternative approaches; or 2) hold a public meeting before acting on the petition for purposes of gathering additional information to guide our decision on whether to grant or deny the petition.

cc: H. Tovmassian, RES
W. Haas, NRR
S. Black, NRR