

Withdrawn

NRC Generic Letter 1991-18, Revision 1, "Information to Licensees Regarding NRC Inspection Manual Section on Resolution of Degraded and Nonconforming Conditions," dated October 8, 1997, has been withdrawn.

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See *Federal Register* notice 81 FR 31969, dated
May 20, 2016

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR REACTOR REGULATION
WASHINGTON, D.C. 20555-0001

October 8, 1997

NRC GENERIC LETTER NO. 91-18, REVISION 1: INFORMATION TO LICENSEES
REGARDING NRC INSPECTION
MANUAL SECTION ON RESOLUTION
OF DEGRADED AND
NONCONFORMING CONDITIONS

Addressees

All holders of operating licenses for nuclear power and non-power reactors, including those power reactor licensees who have permanently ceased operations, and all holders of non-power reactor licenses whose license no longer authorizes operation.

Purpose

The U.S. Nuclear Regulatory Commission (NRC) is issuing this generic letter to inform licensees of the issuance of a revised section of Part 9900, "Technical Guidance," of the NRC Inspection Manual. The revised section is entitled "Resolution of Degraded and Nonconforming Conditions." The revisions to this section of Part 9900 more explicitly discuss the role of the 10 CFR 50.59 evaluation process in the resolution of degraded and nonconforming conditions. The Part 9900 guidance on operability forwarded by Generic Letter (GL) 91-18 has not been revised. This letter is provided for information only; no specific action or written response is required.

Background

The previous version of NRC Inspection Manual, Part 9900, "Technical Guidance," on the Resolution of Degraded and Nonconforming Conditions, was issued for information in GL 91-18, on November 7, 1991. This guidance provided a process for licensees to develop a basis to continue operation or to place the plant in a safe condition and to take prompt corrective action. It contained a number of provisions that relate to the role of 10 CFR 50.59 and the basis for continued operation of a facility.

Section 4.3.2, "Changing the Current Licensing Basis To Satisfy an Appendix B Corrective Action," stated:

A licensee may change the design of its plant as described in the FSAR in accordance with 10 CFR 50.59, at any time. Whenever such changes are sufficient to resolve a degraded or nonconforming condition involving an SSC [system, structure, or component] that is subject both to Appendix B and 50.59, they may be used in lieu of restoring the affected equipment to its original

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design. However, whenever such a change involves a unreviewed safety question (USQ) or change in a technical specification (TS), the licensee must obtain a license amendment in accordance with 10 CFR 50.90 prior to operating (emphasis added) the plant with the degraded or nonconforming condition...

Section 4.5.1, "Justification for Continued Operation (JCO) Background," stated:

The license authorizes the licensee to operate the plant in accordance with the regulations, license conditions, and the TS. If an SSC is degraded or nonconforming but operable, the license provides authorization to operate and the licensee does not need further justification. The licensee must, however, promptly identify and correct the condition adverse to safety or quality in accordance with 10 CFR Part 50, Appendix B, Criterion XVI.

A footnote to the flow chart attached to the Part 9900 guidance stated:

50.59 may be used to make a change in a facility, as described in the SAR, which would resolve the condition adverse to safety or quality so that the degraded and nonconforming condition no longer exists. Delay or partial correction of conditions adverse to safety or quality is considered a change in facility or procedures and subject to 50.59 review.

The NRC Inspection Manual Part 9900 guidance, "10 CFR 50.59 - Interim Guidance on the Requirements Related to Changes to Facilities, Procedures, and Tests (or Experiments)," issued in April 1996, specifically refers to the Part 9900 attached to GL 91-18 for guidance concerning 10 CFR 50.59 in the resolution of degraded and nonconforming conditions.

As part of its reevaluation of the 10 CFR 50.59 process, the staff recognized that the guidance in GL 91-18 was not complete, and may in some respects be inconsistent. Therefore, the staff developed additional guidance on the application of 10 CFR 50.59 to the resolution of degraded and nonconforming conditions. The staff's proposed guidance was published for public comment, as part of draft NUREG-1606, "Proposed Regulatory Guidance Related to Implementation of 10 CFR 50.59 (Changes, Tests, or Experiments)," on May 7, 1997 (62 FR 24947).

Description of Circumstances

The proposed guidance published for comment on May 7, 1997, discussed the application of 10 CFR 50.59 to implementation of compensatory measures, how "delay" should be interpreted, and how the guidance about obtaining a license amendment operating the facility with a condition involving a USQ should be interpreted. In this proposed guidance, the staff stated that implementation of compensatory measures required a 10 CFR 50.59 evaluation with respect to the condition described in the final safety analysis report (FSAR) and that the staff would consider delay to have occurred when a licensee has not implemented corrective action at the first available opportunity (considering need for analysis or parts, or the need to be in cold shutdown to complete the action), in any event not to exceed the next refueling outage. Finally, the staff proposed that when a licensee determined that resolution of a

nonconforming condition involved a USQ, the license amendment should be issued before the plant resumed operation from any shutdown (the NRC would not require a plant to shut down in such circumstances provided that SSCs required for operation were operable). Over the last several months, a number of nonconforming conditions have been identified at operating plants through licensee reviews and NRC inspections. Based on staff experience in dealing with these situations, the staff has concluded that a revision to the Part 9900 guidance, "Resolution of Degraded and Nonconforming Conditions," was appropriate.

Many of the comments received in response to the *Federal Register* notice stated that the position that should be applied is more consistent with the discussion in Section 4.5.1 of the existing Part 9900 guidance, that is, if SSCs are operable but degraded, the license provides authority for continued operation, and existence of a USQ, by itself, should not be an impediment to a plant's ability to resume operation.

Commenters noted that the policy of not requiring plant shutdown but preventing plant restart was arbitrary, and had no basis in safety. Commenters also suggested that delay in implementation of corrective action is a matter for enforcement of 10 CFR Part 50, Appendix B, and not for requiring a 10 CFR 50.59 evaluation. The commenters also stated that requiring a 10 CFR 50.59 evaluation of compensatory measures against the condition described in the safety analysis report (SAR) would essentially preclude licensee implementation of compensating actions that enhance safety when degraded or nonconforming conditions are found.

On the basis of the staff's continuing review of the issues associated with nonconforming conditions and with interpretations of 10 CFR 50.59 requirements, and of the public comments that were received in response to the *Federal Register* notice, the staff determined that it would be beneficial at this time to issue a revision to this Inspection Manual Chapter 9900 guidance, even before other aspects of potential guidance are resolved, because of the impacts on plant operation. Therefore, through this generic letter, the NRC is notifying addressees of the issuance of the attached NRC Inspection Manual guidance.

Discussion

As discussed in more detail in the attached guidance, the staff now concludes that the need to obtain NRC approval for the final resolution of a degraded or nonconforming condition does not affect the licensee's authority to continue operation (or restart from a shutdown), provided that necessary equipment is operable and the degraded equipment is not in conflict with any technical specification. Thus, Section 4.3.2 has been revised, and other conforming changes made, to note this change in staff guidance.

On July 21, 1997, the Nuclear Energy Institute (NEI) submitted to the NRC a guidance document, NEI 96-07 [Final Draft], "Guidelines for 10 CFR 50.59 Safety Evaluations." Part of this guidance relates to applicability of 10 CFR 50.59 to degraded and nonconforming conditions.

The specific guidance is:

In the case of a nonconforming condition, there are three potential scenarios for addressing the condition:

- If the condition is accepted "as-is" resulting in something different than described in the SAR or is modified to something different than described in the SAR, then the condition should be considered a change and subjected to a 10 CFR 50.59 safety evaluation unless another regulation applies (i.e., 10 CFR 50.55a).
- If the licensee intends to restore the SSC back to its previous condition (as described in the SAR), then this corrective action should be performed in accordance with 10 CFR Part 50, Appendix B (i.e., in a timely manner commensurate with safety), and a 10 CFR 50.59 safety evaluation is not required.
- If an interim compensatory action is taken to address the condition and involves a procedure change or temporary modification, a 10 CFR 50.59 review should be conducted and may result in a safety evaluation. The intent is to determine whether the compensatory action itself (not the degraded condition) impacts other aspects of the facility described in the SAR.

The staff finds this industry guidance acceptable with respect to the need for a 10 CFR 50.59 safety evaluation for degraded and nonconforming conditions. Therefore, the revised Part 9900 Inspection Manual guidance references this industry guidance.

As noted in the Part 9900 guidance, the NRC will take enforcement action if it determines that licensee corrective action (which may include submittal of a license amendment request) is not prompt, or that operability determinations are not sound. Enforcement action may also be taken for the circumstances that led to the existence of the degraded or nonconforming condition.

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This generic letter was not published for public comment because the issues covered by the revision were previously published for public comment in May 1997, and the staff's guidance is responsive to the comments received. This generic letter requires no specific action or response. If you have any questions about this matter, please contact the technical contact listed below.


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Attachments:

1. Inspection Manual Part 9900 Guidance, "Resolution of Degraded and Nonconforming Conditions"
2. List of Recently Issued NRC Generic Letters

LIST OF RECENTLY ISSUED GENERIC LETTERS

Generic Letter	Subject	Date of Issuance	Issued To
97-04	ASSURANCE OF SUFFICIENT NET POSITIVE SUCTION HEAD FOR EMERGENCY CORE COOLING AND CONTAINMENT HEAT REMOVAL PUMPS	10/07/97	ALL HOLDERS OF OLs FOR NUCLEAR POWER PLANTS, EXCEPT THOSE WHO HAVE PERMANENTLY CEASED OPERATIONS AND HAVE CERTIFIED THAT FUEL HAS BEEN PERMAN- ENTLY REMOVED FROM THE REACTOR VESSEL
97-03	ANNUAL FINANCIAL SURETY UPDATE REQUIREMENTS FOR URANIUM RECOVERY LICENSEES	07/09/97	URANIUM RECOVERY LICENSEES AND STATE OFFICIALS
97-02	REVISED CONTENTS OF THE MONTHLY OPERATING REPORT	05/15/97	ALL HOLDERS OF OLs FOR NPRs, EXCEPT THOSE WHO HAVE PERMANENTLY CEASED OPERATIONS AND HAVE CERTIFIED THAT FUEL HAS BEEN PER- MANENTLY REMOVED FROM THE REACTOR VESSEL

OL = OPERATING LICENSE
CP = CONSTRUCTION PERMIT
NPR = NUCLEAR POWER REACTORS

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*SEE PREVIOUS CONCURRENCES

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