



NUCLEAR ENERGY INSTITUTE

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January 14, 2004

Mr. James E. Lyons
Program Director, New, Research and Test Reactors Program
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

SUBJECT: Interim Staff Guidance for Early Site Permit Reviews

PROJECT 689

Dear Mr. Lyons:

We appreciate the opportunity afforded by your December 3, 2003, letter to comment on the Interim Staff Guidance (ISG) process proposed by the NRC staff for considering and implementing additions or changes to the guidance in Review Standard RS-002, "Processing Applications for Early Site Permits."

We share the NRC's objective to establish a structured process for consideration of changes to ESP application review guidance that is open, efficient and effective. However, industry experience with similar ISG processes has been mixed. While ISGs related to spent fuel storage and many of the ISGs related to license renewal resulted in a number of worthwhile enhancements to NRC review guidance in those areas, the ISG process for license renewal, on which the proposed ESP ISG process is largely based, failed to screen out several issues of low importance. Significant staff and industry resources were thus expended to develop, review and comment on unwarranted ISGs. Once established, these unwarranted ISGs continue to consume scarce NRC and applicant resources without commensurate safety benefit.

License renewal experience indicates that to ensure an effective and efficient ISG process for ESP, careful initial evaluation and screening of proposed changes to ESP review guidance is essential. As has been expressed in the license renewal context, strong management involvement and support is critical to ensure that the screening process is effective at distinguishing between matters warranting development of an ISG and those that do not.

Effective screening is only possible if adequate information is available to support the screening determination. To ensure that the NRC staff has complete information with respect to screening of potential ISG issues, we recommend that stakeholders be afforded the opportunity to provide additional perspectives as input to the screening determination. We recommend that the ISG coordinator's preliminary evaluation (i.e., the 30-day response to the originator called for in Section 4.2.1) be posted on the NRC website. This would inform all stakeholders that an issue is being considered for an ISG and summarize the current status of the review. The website notification would request that stakeholders contact the ISG coordinator within 30 days with additional information or perspective for staff consideration. Stakeholder input is important at this point in the process because consideration of additional information and/or alternative approaches may obviate the need for some ISGs altogether, thus conserving significant NRC staff and applicant resources.

Additional Comments

1. Section 4.1 states, "The staff should not ask an applicant to address the new issue through a request for additional information (RAI) until an approved ESP ISG has been issued." We recommend this sentence be deleted. It is certainly true as stated in the next sentence that ISGs may have schedule implications for ESP applicants. Accordingly, Section 4.1 should call for the staff to inform applicants as soon as possible regarding information that may lead to new or modified NRC review standards or criteria. Based on the nature of the issue, applicants so informed may choose to modify their application to address the concern without waiting for the lengthy ISG process to complete. Notwithstanding such a decision by a specific applicant, if the issue is generic, the staff may continue to develop the ISG, and the industry may continue to participate as a stakeholder in the ISG process with the goal that appropriate guidance for future ESP applicants is established.
2. The time frames proposed in Section 6 as performance measures are too long. The staff target for issuing proposed ISGs (Item 2) should be 90 days after identification of an issue. Ninety days should also be the target for issuing final ISGs after close of the public comment period. These shorter time frames should be readily achievable for most issues. Complex issues that exceed these targets are also accommodated by these more challenging performance measures.

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We note that the starting point for the final performance measure is not identified. Even if we assume the earliest possible starting point (issue origination), the objective to complete all ISGs within two years is overly modest. Provided the screening process is effective in winnowing out issues that do not warrant development of an ISG, one year is a more appropriate target for completion of each ISG.

If you have any questions regarding these comments, please contact me at 202-739-8128 or rls@nei.org.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Simard". The signature is written in a cursive style with a large initial "R" and a long, sweeping underline.

Ron Simard

c: Mike Scott, NRC/NRR