

May 5, 2005

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SUBJECT: STAFF RESPONSE TO "INDUSTRY POSITION PAPER ON THE INTERIM STAFF GUIDANCE PROCESS" – RESPONSE TO YOUR LETTER DATED FEBRUARY 18, 2005

Dear Messrs. Marion and Lochbaum:

By letter dated December 12, 2003, we issued our final guidance document related to the interim staff guidance (ISG) process. By letter dated February 13, 2004, you submitted a series of questions and requested clarifications on the process. NRC staff responses to these inquiries were enclosed by letter on July 21, 2004. By letter dated February 18, 2005, you enclosed an Industry Position Paper discussing the application of 10 CFR 54.37(b).

The NRC staff maintains its position on the effect of § 54.37(b), which requires that updates of the Final Safety Analysis Report (FSAR) pursuant to 10 CFR 50.71(e) include "any systems, structures, and components (SSCs) newly identified that would have been subject to an aging management review or evaluation of time-limited aging analyses in accordance with § 54.21." § 54.37(b) also requires that "[t]his FSAR update must describe how the effects of aging will be managed such that the intended function(s) in § 54.4(b) will be effectively maintained during the period of extended operation." It remains the staff's position, as explained in the "Responses to Nuclear Energy Institute Questions on the 'Process for Interim Staff Guidance Developments and Implementation'," dated July 21, 2004, that after a renewed license is issued, § 54.37(b) requires the licensee to assess newly identified SSCs and manage their aging, if necessary, without the staff's performance of a backfit analysis. The requirement stems from application of the rule language itself, and therefore does not constitute a new requirement or a new interpretation that could be considered a backfit.

Furthermore, § 54.37(b) does not limit how “newly identified” SSCs are found; rather, any entity may identify such SSCs. Therefore, should the NRC staff identify (through an interim staff guidance) an SSC as needing an aging management review to comply with § 54.21, all holders of renewed licenses affected by this SSC would then be obligated by the requirements of § 54.37(b) to take appropriate action leading to an update of the FSAR with respect to that SSC.

The Statement of Consideration (SOC) for the rule as originally promulgated in 1991 supports this view. It states at 56 Fed. Reg. 64966:

The Commission continues to believe that a special provision in 10 CFR part 54 that would impose backfit-style requirements on the agency is not needed. ... Any additional requirements to address age-related degradation unique to license renewal that are necessary to ensure compliance with the plant’s current licensing basis may be imposed without regard to cost. This is analogous to the “compliance exemption” in 10 CFR 50.109(a)(4)(I). The NRC need not prepare a separate document explaining the basis for such a conclusion.

The SOC for the 1995 revision of the rule similarly supports the staff’s position. The 1995 SOC states at 60 Fed. Reg. 22483-84:

For newly identified [SSCs] that would have required either an aging management review or a time-limited aging analysis, the final rule requires that the licensee describe in the periodic FSAR update how the effects of aging will be managed to ensure that [SSCs] perform their intended function during the period of extended operation.

Two commenters to the 1995 rule revision suggested that the level of detail required by § 54.37(b) was greater than and inconsistent with the level of detail required in the FSAR supplement required by § 54.21(d). However, the Commission emphasized that the level of detail required by § 54.37(b) is appropriate since newly identified SSCs would not have been reviewed as part of the renewal application. 60 Fed. Reg. at 22484. Therefore, detailing the newly identified SSCs in FSAR updates would assure that licensees have considered relevant technical information regarding the aging effects of these SSCs. Including newly identified SSCs in FSAR updates would also establish appropriate administrative and regulatory controls on the programs that manage their aging. *Id.*

In summary, § 54.37(b) requires the holder of a renewed license to include newly identified SSCs in updated FSARs, as well as to describe how the effects of aging will be managed for such SSCs. A reading of the 1991 and 1995 SOC for the Part 54 rule confirms the staff's position that it may impose the requirements of § 54.37(b) without conducting a backfit analysis.

If you have any questions regarding this matter, please contact Steve Hoffman at 301-415-3245.

Sincerely,

/RA/

Pao-Tsin Kuo, Program Director
License Renewal and Environmental Impacts Program
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

Project No.: 690

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In summary, § 54.37(b) requires the holder of a renewed license to include newly identified SSCs in updated FSARs, as well as to describe how the effects of aging will be managed for such SSCs. A reading of the 1991 and 1995 SOC for the Part 54 rule confirms the staff's position that it may impose the requirements of § 54.37(b) without conducting a backfit analysis.

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