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70 FR 58490  
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NUCLEAR ENERGY INSTITUTE

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December 6, 2005

Rules and Directives Branch  
Office of Administration  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

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RULES AND DIRECTIVES  
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**SUBJECT:** Comments on "Draft Regulatory Guide [Proposed Revision 1 to Regulatory Guide 8.38, *Control of Access to High and Very High Radiation Areas*]: Issuance, Availability" (Reference: 70 Fed. Reg. 58490, dated October 6, 2005)

This letter provides comments of the Nuclear Energy Institute (NEI), on behalf of the nuclear energy industry, on the subject *Federal Register* notice that requests comments regarding proposed revision 1 to Regulatory Guide 8.38, "Control of Access to High and Very High Radiation Areas."

Our comments specific to the proposed changes to the guide are enclosed. We appreciate this effort to clarify the existing guidance. The proposed changes, taking into account our enclosed comments, can have the effect of improving consistency in the reading and application of the guide's regulatory position and thereby help ameliorate some of the implementation problems discussed in public meetings between licensees and NRC staff over the past year.

We believe that some of the issues underlying the implementation problems remain unresolved. For example, Part 50 licensees implement controls over access to high radiation areas primarily in accordance with criteria prescribed in applicable technical specifications, which are not directly affected by the regulatory guide. The criteria were developed more than 15 years ago, and do not necessarily reflect the ensuing advancements in technology and procedures and improvements to industry performance and practices.

In 2006, NEI plans to utilize an industry task force to undertake a comprehensive review of the regulatory framework governing control of access to high and very

SISIP Review Complete  
Template = ADM-013

REFS = ADM-03  
Call = H. Karagionis (HXK)

U.S. Nuclear Regulatory Commission

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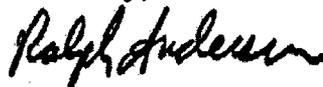
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high radiation areas in light of current industry practices, procedures, performance, and use of technology. We intend to interact with NRC staff at key stages in the planning and execution of the review.

Upon completion of our review, we look forward to being able to share our insights and conclusions with the NRC and discuss possible improvements toward a more risk-informed, performance-based, and cost-effective regulatory framework applicable to the control of access to high and very high radiation areas. This activity seems especially timely given the need to assess and update regulatory elements relevant to the licensing of new plants, including such regulations, guidance, and technical specifications as will be within the scope of our review.

Thank you for the opportunity to provide our comments on the subject notice. If you have any questions regarding our comments, please contact me at (202) 739-8111.

Sincerely,



Ralph L. Andersen

Enclosure

Enclosure

Nuclear Energy Institute (NEI) Comments on Draft Revision 1 to USNRC  
Regulatory Guide 8.38, "Control of Access to High and Very High Radiation Areas"  
(Reference: 70 Fed. Reg. 58490, dated October 6, 2005)

1. In Section 1.6, the proposed revision includes guidelines applicable to the use of shielding to ensure inaccessibility of a high or very high radiation area. We suggest the following changes to help improve the clarity and consistency in application of the guidelines:
  - a. In item (1), clarify that shielding that is secured by wire, bolts or other means that would require the use of wire cutters or other tools to remove is not considered to be "readily removable." This is analogous to other guidance provided in this regulatory guide that determined circumvention of controls cannot be prevented absolutely, and that such instances should be addressed through other means.
  - b. In item (2), clarify that the guidance on periodic verification is applicable to shielding that is "readily removable," as defined in item (1). Also, add clarification that recognizes that the guidance on verification is not intended to lead to additional exposure of survey personnel or unnecessary burden –i.e., it should be accomplished *within* the routine surveillance program, and not as a special surveillance.
  - c. Item (3) includes guidance on the use of local alarming radiation monitors for situations involving removable shielding where the unshielded dose rates could exceed 1,000 mrem/hr. Add clarification that, in the case of the use of a local alarming radiation monitor, "periodic verification," as described in item (2), should consist of periodically verifying the operability of the monitor. The monitor itself, if operable, is the means for verifying the effectiveness of the shielding.
2. In Section 4.2, the proposed item (4) regarding diving operations should be revised to clarify that the guidance is applicable to the diving operation itself, as it relates to accessible sources of high and very high radiation dose-rates within a spent fuel pool, reactor vessel, or refueling cavity area. As written, the proposed guidance may be misconstrued to imply that the entire spent fuel pool, reactor vessel, or refueling cavity area should be controlled as a high or very high radiation area whenever diving operations are taking place.