UNITED STATES
NUCLEAR REGULATORY COMMISSION
ADVISORY COMMITTEE ON REACTOR SAFEGUARDS
WASHINGTON, DC 20555 - 0001

ACRSR-2194

May 22, 2006

The Honorable Nils J. Diaz
Chairman
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

SUBJECT: PROPOSED REVISIONS TO 10 CFR PART 52: LICENSES, CERTIFICATIONS, AND APPROVALS FOR NUCLEAR POWER PLANTS, AND CONFORMING AMENDMENTS TO APPLICABLE NRC REGULATIONS

Dear Chairman Diaz:

During the 532nd meeting of the Advisory Committee on Reactor Safeguards (ACRS), May 4–5, 2006, we reviewed the proposed revisions to 10 CFR Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants," and conforming amendments to 10 CFR Parts 1, 2, 10, 19, 20, 21, 25, 26, 50, 51, 54, 55, 72, 73, 95, 140, 170, and 171. During our review, we had the benefit of discussions with representatives of the NRC staff and the documents referenced.

RECOMMENDATIONS

1. A level-3 probabilistic risk assessment (PRA) consequence analysis should not be required at the early site permit (ESP) stage.

2. We support a requirement for the combined license (COL) applicant to maintain an up-to-date PRA. Updates to the PRA need not be submitted to the NRC.

3. It should be sufficient for the ESP applicant to identify only the major features of the site emergency plan. The definitions of major features should be specified in regulatory guidance documents.

4. We agree with the staff that a new paragraph (e) to 10 CFR 50.47, "Emergency plans," should be added, along with a coordinated revision of 10 CFR 50.54, "Conditions of Licenses," to allow operation up to 5 percent power even with deficiencies in emergency preparedness identified by the Federal Emergency Management Agency (FEMA), as is currently allowed for nuclear power plants licensed under Part 50.

DISCUSSION

The ACRS considers a 10 CFR Part 100, "Reactor Site Criteria," radiological analysis to be an adequate characterization of a site for the purpose of an ESP. At the ESP stage, there is insufficient design detail to make a level-3 radiological consequence analysis meaningful.

We support a requirement for the COL applicant to maintain an up-to-date PRA. Updates to the PRA need not be submitted to the NRC. The updated PRA should be available at the licensee's site for inspection by the NRC.

One of the lessons learned from existing ESP applications is that significant impediments to emergency planning are not anticipated. This is because it is unlikely that a site with a significant impediment would be proposed for an ESP. It should be sufficient for an ESP applicant to identify the major features of the emergency plan. Experience has shown, however, that the definition of "major features" should be clarified in guidance documents available to ESP applicants.

We support the addition of a new paragraph (e) to 10 CFR Part 50.47 and the revision to 10 CFR 50.54. Even if FEMA has identified deficiencies in the emergency plan after the plant has been made ready for operation, operation at up to 5 percent power level for a limited period of time should be acceptable from a site risk viewpoint. The economic risk is that the plant subsequently may not be allowed to operate if the deficiency cannot be sufficiently remedied. It should be up to the licensee to decide whether to accept such a risk.

Sincerely,

/RA/

Graham B. Wallis
Chairman

References:

1. SECY-05-0203, Revised Proposed Rule to Update 10 CFR Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants," dated November 3, 2005.
2. Staff Requirements Memorandum - SECY-05-0203 - Revised Proposed Rule to Update 10 CFR Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants," dated January 30, 2006.
3. *Federal Register* Notice: Proposed Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants," 71 FR 12782-12932.
4. Letter dated December 14, 2005, from Marvin S. Fertel, Nuclear Energy Institute, to Nils J. Diaz, Chairman, NRC, Subject: Industry Comments on the Part 52 Rulemaking Proposal.

We support a requirement for the COL applicant to maintain an up-to-date PRA. Updates to the PRA need not be submitted to the NRC. The updated PRA should be available at the licensee's site for inspection by the NRC.

One of the lessons learned from existing ESP applications is that significant impediments to emergency planning are not anticipated. This is because it is unlikely that a site with a significant impediment would be proposed for an ESP. It should be sufficient for an ESP applicant to identify the major features of the emergency plan. Experience has shown, however, that the definition of "major features" should be clarified in guidance documents available to ESP applicants.

We support the addition of a new paragraph (e) to 10 CFR Part 50.47 and the revision to 10 CFR 50.54. Even if FEMA has identified deficiencies in the emergency plan after the plant has been made ready for operation, operation at up to 5 percent power level for a limited period of time should be acceptable from a site risk viewpoint. The economic risk is that the plant subsequently may not be allowed to operate if the deficiency cannot be sufficiently remedied. It should be up to the licensee to decide whether to accept such a risk.

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Graham B. Wallis
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