



Tennessee Valley Authority, 1101 Market Street, Chattanooga, Tennessee 37402-2801

December 21, 1998

Chief, Rules Review and Directives Branch
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Gentlemen:

NUCLEAR REGULATORY COMMISSION (NRC) - OPPORTUNITY FOR
PUBLIC COMMENTS ON PROPOSED RULEMAKING, "CHANGES, TESTS,
AND EXPERIMENTS"

On October 21, 1998, NRC published a Notice of Proposed
Rulemaking (NOPR) for public comment (63 FR 9581) which was
related to licensee evaluations of changes.

TVA finds many of the NRC positions and clarifications to
be improvements. However, the proposals outlined for
evaluating and tracking increases in consequences and
reductions in margin of safety introduce significant
regulatory uncertainty that seems unnecessary. TVA's
experience with implementation of 10 CFR 50.59 as described
in industry guidance, NEI 96-07, shows that the industry
guidance leads to results consistent with the goals of the
original rule. The rule recognizes that licensees need
flexibility to cope with the myriad issues faced daily in
the field. The rule also addresses the staff's
responsibility to control significant changes and to be
able to define which changes are significant. Where the
decision of significance has been left to the NRC technical
staff, the rule has generally achieved these goals.

The tension that we see today over whether changes do or do
not require NRC review is a direct result of imprecise
terminology under the current rule and varying
interpretations of that terminology. Recent staff
overemphasis on literal interpretations of terms and
verbatim compliance have left little room for judgment as
intended by the original rule. While the lack of
specificity in the rule frustrates the desire for
precision, it does so to retain the flexibility for NRC to
regulate and for licensees to operate plants efficiently.

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The current rulemaking attempts to clarify the existing rule by defining new terms and using other terms which have been in existence for several years. TVA is concerned that the introduction of these new terms (e.g., altered in a nonconservative manner, regulatory envelope) and expanded use of terms derived by engineers and technical staff that have been previously used but not universally defined or understood (e.g. design basis, important to safety) will create the very real potential for new areas of regulatory uncertainty and abuse which we currently face under the current rule. A substantial revision of the rule will not eliminate or minimize regulatory uncertainty which has been one of the Commission's longstanding goals.

TVA believes the current rule has been implemented successfully by utilities using the industry guideline, NEI 96-07. Experience shows that the majority of issues identified by the NRC staff have been failures of licensees to perform screens which determine whether full safety evaluations are required. These omissions could have been avoided by proper implementation of NEI 96-07 guidance.

Several years ago, the NRC technical staff had reached agreement with industry and was prepared to endorse industry guidance (NSAC 125). That endorsement stalled due to an internal impasse over the interpretation of "may be created." The current Commission direction to the staff addresses that zero tolerance issue by allowing minimal increases. The Commission direction should allow the staff to endorse the guidance in NEI 96-07. Implementation of such a decision would require minimal changes to industry guidance, could be completed quickly, and would minimize regulatory uncertainty.

Conversely, if the Commission chooses from among several possible options proposed by the staff and industry, a significant amount of time will be needed to develop new implementation guidance. Significant industry and staff interaction will be needed to reach agreement on definitions, and additional Commission involvement is likely to be needed. Licensees will need time to develop lesson plans and implement training for the large population of personnel responsible for implementation. If these more detailed options are chosen, the Commission should allow ample time for implementation and should consider an implementation schedule allowing up to one year.

With respect to allowing minimal increases in consequences, the staff has proposed special requirements for tracking and reporting cumulative effects of minimal changes. The current regulations for UFSAR updates lead to reporting of changes in UFSAR. These provisions should be sufficient to allow the staff to monitor the trend of margins. Additional tracking, justification, and reporting should not be required.

The proposed reporting requirements extend and expand existing reporting requirements. This expansion should be the subject of a careful cost/benefit analysis by the staff. It is not apparent that the existing summary reports are necessary for effective monitoring of the existing programs. Past NRC reviews of 10 CFR 50.59 implementation have been conducted effectively onsite in order to access the more detailed records needed to make a determination of adequacy.

The staff also proposes to require that effects of changes be reflected in the UFSAR including new analysis performed at the Commission's request. This requirement should be explicitly identified in subsequent Commission requests for analysis and factored into future 50.109 determinations.

The NOPR discusses the desire of the Commission to reduce or eliminate redundant change control processes and 10 CFR 50.54(a) and (q) are specifically mentioned. TVA believes the language of the rule itself, accompanying Statements of Consideration, or specific implementation guidance should clarify how 10 CFR 50.59 applies to the following documents. These reports are typically discussed briefly in the UFSAR and have unique revision and reporting requirements.

- Core Operating Limits Report (COLR)
- Offsite Dose Calculation Manual (ODCM)
- Pressure and Temperature Limits Report (PTLR)
- Fire Protection Report (FP)
- Safeguards Contingency Plan

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TVA has reviewed the positions being submitted by NEI, and subject to the comments above, endorses those industry positions.

Sincerely,

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