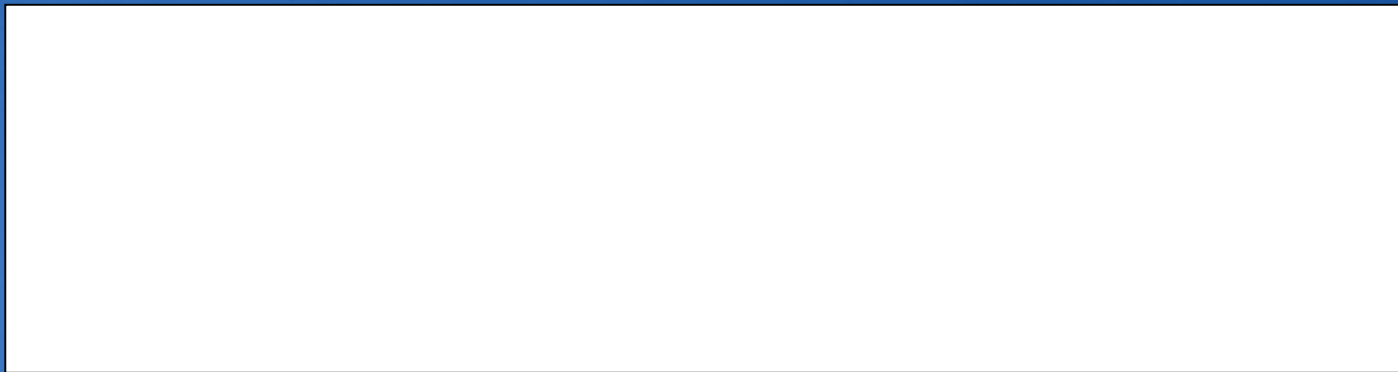


**Industry Concerns with the
NRC Response to Region 3
TAR dated February 25, 2011**



Agenda

- NEI/Industry concerns
- Industry Position on Applicability of 10CFR50 and 10CFR72 to cask loading, unloading and handling
- Industry Position on the use of 10CFR50.59 and 10CFR72.48 for analyses justifying changes to the FSAR
- Industry proposal for path forward

NEI/Industry Concerns

- Inspection guidance is not an appropriate process to change regulatory position
- NRC appears to be changing its regulatory position
 - Inspection guidance inconsistent with previously established regulatory position on applicability of Part 50 and Part 72 has been issued
 - Inspection guidance pre-determines that NRC approval is required, eliminating the authority of licensees to make changes pursuant to 50.59 and 72.48
- NRC interpretation of 50.59 and 72.48 is inconsistent with NEI 96-07

Industry Position on Applicability of 10CFR50 and 10CFR72 to cask loading, unloading and handling

- Cask loading, unloading and handling activities using structures governed by Part 50, are addressed by general licensees within their Part 50 facility license
 - Assures safety in consistent manner
 - Is consistent with established regulatory position
 - Established approach is appropriate
 - Meets ALARA objectives



Basis for Industry position on applicability of Part 50 and Part 72

- Process for general licensee to assure safety in compliance with regulations
 - Licensee maintains consistency in plant operations under Part 50 facility license
 - Activity is evaluated through 50.59 to determine need for prior NRC approval
 - Analysis is same as that for other plant activities
 - Licensee ensures operations in compliance with Part 72 cask license
 - Analysis results within cask licensing basis, justified by 72.48, or LAR for cask

Basis for Industry position on applicability of Part 50 and Part 72

- Consistent with established regulatory position
 - Intent of Part 72 amendment for general license
 - Established licensing bases of casks do not contain the analyses for these activities
 - General licensees have historically performed these analyses under Part 50
 - Reinforced through prior NRC inspections (procedure reviews, dry runs, etc.)

Basis for Industry position on applicability of Part 50 and Part 72

- Established approach is appropriate to ensure public health and safety
 - Fuel and heavy load handling routinely performed by licensee under Part 50 license
 - Many aspects of fuel and heavy load handling are site specific
 - Would not be possible for CoC holder to include all possibilities in cask licensing basis, leading to many amendments or exemptions

Industry Position on the use of 10CFR50.59 and 10CFR72.48 for analyses justifying changes to the FSAR

- 50.59 and 72.48 are the appropriate means for a licensee to determine if prior NRC review and approval is required
- Nobody (licensee or NRC) should pre-determine the outcome of the 50.59 or 72.48 process

Industry Proposal for Path Forward

- Clarify TAR response to be consistent with established regulatory position
- Determine if change in regulatory position is necessary
 - Industry believes the established position is sound
- If yes, then work with industry to develop a more workable regulatory position
 - Position in inspection guidance creates burden on industry without commensurate safety benefit
- If change is necessary, utilize an appropriate regulatory process
 - Pursue change in regulatory position through 72.62 or rulemaking

