

RULES AND DIRECTIVES
BRANCH
USNRC



RODNEY MCCULLUM
Director, Used Fuel Programs

1201 F Street, NW, Suite 1100
Washington, DC 20004
P: 202.739.8082
rxm@nei.org
nei.org

2014 JAN 23 AM 10:04

RECEIVED

12/6/2013

78FR 73566

2

January 22, 2014

Ms. Cindy K. Bladey
Chief, Rules, Announcements, and Directives Branch (RADB)
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Comments on Draft Regulatory Guide DG-3042, "Standard Format and Content for a License Application for an Independent Spent Fuel Storage Installation or a Monitored Retrievable Storage Facility" (*Federal Register* dated December 6, 2013; 78 FR 73566-73568; Docket ID: NRC-2013-0264)

Project Number: 689

Dear Ms. Bladey:

The subject *Federal Register* Notice issued for public comment a proposed Revision 2 to the NRC's Regulatory Guide 3.50 dated September 1989. This proposed revision seeks to bring NRC's guidance up to date with the current format and content requirements in 10 CFR Part 72, which has been revised several times since Revision 1 was issued. The revision also updates the guidance on electronic submissions of applications and makes editorial changes to improve clarity. The Nuclear Energy Institute (NEI)¹ appreciates the opportunity to provide comments on this document on behalf of the nuclear industry.

The proposed revision to Regulatory Guide 3.50 reflects a positive step towards regulatory clarity by bringing NRC's regulatory guidance up to date. However, we believe that this update should be implemented as part of a more holistic approach to achieving this objective. Specifically, we recommend that this proposed update be considered in conjunction with NRC's response to the changes proposed to 10 CFR Part 72 by NEI's October 2012 Petition for rulemaking – PRM 72-7. We make this recommendation because proposed DG-3042 provides guidance for the implementation of, among other regulations, 10 CFR 72.44 *License Conditions*. PRM 72-7 proposes the addition of criteria to 10 CFR 72.44 that would fundamentally improve this regulation by assuring that technical specifications for site specific licenses will

¹ NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

NUCLEAR. CLEAN AIR ENERGY

SUNSI Review Complete
Template = ADM - 013
E-RIDS= ADM-03
Add= J. Parks (Jdp4)

Ms. Cindy K. Bladey
January 22, 2014
Page 2

be standardized at an appropriate level of detail (consistent with what PRM 72-7 also proposes for generic Certificates of Compliance). The changes called for by PRM 72-7 are foundational to establishing a stable, predictable and risk informed regulatory framework for dry cask storage. No update to guidance within this framework can be considered complete without addressing the changes called for by PRM 72-7. NRC should therefore move expeditiously on its consideration of PRM 72-7 before completing this update.

If implemented as part of a holistic approach, we believe that the proposed update can be a valuable improvement to the dry cask storage regulatory framework. In the enclosure to this letter we offer detailed comments to further improve its utility. Several of these comments further address a more holistic approach by recommending that NRC assure that related guidance referenced in this update is also up to date.

We look forward to further dialogue with NRC on this and related regulatory improvements. Should you have any questions, please contact me or Kris Cummings at 202.739.8031; kwc@nei.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Rod McCullum", written in a cursive style.

Rod McCullum

Attachment

c: Mr. Mark Lombard NMSS/SFST, NRC

NEI Detailed Comments on DG-3042

NO.	DG SECTION	COMMENT
1	A. Introduction Related Guidance	Regulatory Guide 3.62 has not been updated since 1989. It does not reflect the SAR format and content in the SRP the NRC uses to review specific license applications. The SAR sections in the application should follow the format and content in the SRP (NUREG-1567 as augmented by ISG-15).
2	B. Discussion Reason for Revision	The reason for revision should also include a reference to NUREG-1567/ISG-15 for the format and content of the SAR in lieu of RG 3.62.
3	C. Standard Format and Content 1. Contents of the License Application	In the bulleted list for "SAR" and "Proposed technical specifications", RG 3.62 should be replaced with NUREG-1567/ISG-15 due to RG 3.62 being out of date.
4	C. Standard Format and Content 2. Format and Style	In third paragraph, suggest adding "page numbers or" in front of "section numbers."
5	C. Standard Format and Content 2. Format and Style	In the fifth paragraph, suggest including a recommendation for a glossary to be included in the application.
6	C. Standard Format and Content 2. Format and Style	<p>a) In the eighth paragraph, it is not clear what the regulatory basis is for requesting that the application title page include identification of "key individuals responsible for the preparation of the license application." The personnel used to prepare a license application often move on to other responsibilities or could be employees of a contractor employed by the applicant, making such a list inaccurate soon after the application is submitted. A single point of contact for the applicant (e.g., the licensing manager) identified in the cover letter for the application is sufficient.</p> <p>b) Also in the eighth paragraph, 10 CFR 72.16(b) does not require the oath and affirmation to be in any specific location in the application. This level of specificity is not appropriate for the RG.</p> <p>c) The last sentence in the section pertaining to rejection of applications is unnecessary. It is not guidance for preparing a license application and should be deleted.</p>

NO.	DG SECTION	COMMENT
7	C. Standard Format and Content 3. Submissions and Revisions	<p>The discussion in the last sentence of the third paragraph under “Procedures for Updating or Revising Pages” should be deleted. An applicant is not a licensee and does not have the authority granted by 10CFR 72.48 unless and until a license is granted by the NRC. Changes to the application, including the SAR, are submitted to the NRC for review before a license is granted.</p> <p>In lieu of this sentence, we suggest adding guidance recommending that if an applicant is incorporating a certified cask design into the specific license application by reference per 10 CFR 72.46(e), the applicant should specify the CoC amendment and FSAR revision for the cask design that is being incorporated.</p>
8	C. Standard Format and Content	The paragraphs for “Protection of Proprietary Information” and “General and Financial Information” need to be indented.
9	C. Standard Format and Content 4. Further Information	The guidance for “Safety Analysis Report” and “Proposed Technical Specifications” should refer to NUREG-1567/ISG-15 for SAR format and content because RG 3.62 is out of date.
10	C. Standard Format and Content 4. Further Information	The guidance for Physical Protection Plan,” Safeguards Contingency Plan,” “Personnel Training Program,” and “Decommissioning Plan and Decommissioning Funding Plan” should include guidance for applicants intending to license an ISFSI co-located on a reactor site to augment their Part 50 programs to meet these requirements.
11	References	<p>a) Should this section be designated as Section “E”?</p> <p>b) It is not clear that RG 5.55 is relevant to this guidance for ISFSI license applications.</p> <p>c) NUREG-1536, NUREG-1567, and ISG-15 should be added as references.</p>