

# REGULATORY ANALYSIS

## Draft Regulatory Guide DG-1334, “Guidance for Implementation of 10 CFR 50.59, ‘Changes, Tests, and Experiments’”

(Proposed Revision 1 of Regulatory Guide 1.187, dated November 2000)

### 1. Statement of the Problem

The U.S. Nuclear Regulatory Commission (NRC) published Regulatory Guide (RG) 1.187, “Guidance for Implementation of 10 CFR 50.59, ‘Changes, Tests, and Experiments,’” in November 2000, to provide licensees and applicants with agency-approved guidance for complying with Title 10 of the *Code of Federal Regulations* (10 CFR) 50.59, “Changes, Tests, and Experiments.”

The current version of RG 1.187 (revision 0) endorses the Nuclear Energy Institute (NEI) document NEI 96-07, Revision 1, “Guidelines for 10 CFR 50.59 Implementation,” without condition. Recent reviews of licensees’ 10 CFR 50.59 screenings and evaluations have led the NRC staff to identify statements in NEI 96-07, Revision 1 which may be misinterpreted and lead to incorrect licensee determinations under 10 CFR 50.59 for meeting the requirements governing the “Departure from a method of evaluation...” described in the updated Final Safety Analysis Report (FSAR).

The requirements in 10 CFR 50.59(c)(1) authorize a licensee to make changes in the facility or procedures described in its FSAR (as updated), or perform tests or experiments not described in its FSAR (as updated) without first obtaining a license amendment pursuant to 10 CFR 50.90, “Application for amendment of license, construction permit, or early site permit.” The licensee can make these changes without a license amendment only if a change to the facility’s technical specifications is not required, and if the change, test, or experiment does not meet any of the eight criteria listed in 10 CFR 50.59(c)(2).

The NEI guidance in 96-07 is unclear in two respects. First, the NEI guidance may be misinterpreted because it evaluates the use of a “methodology revision” against both 10 CFR 50.59(a)(2)(i) and (ii) in the same sentence. And second, the NEI 96-07 Rev. 1 guidance phrase “...the previous revision of the same methodology...” could be interpreted differently than the intended corresponding phrase in definition in 10 CFR 50.59(a)(2)(i), “*Changing any of the elements of the method described in the FSAR (as updated),*” and lead to incorrect licensee determinations under 10 CFR 50.59.

### 2. Objective

This proposed revision to RG 1.187 clarifies guidance on the process by which licensees, under certain conditions, may make changes to their facilities and procedures (as described in the final safety analysis report (FSAR)), without prior NRC approval.

### 3. Alternative Approaches

The NRC staff considered the following alternative approaches:

1. Do not revise RG 1.187
2. Withdraw RG 1.187
3. Revise RG 1.187

### Alternative 1: Do not revise RG 1.187

Under this alternative, the NRC would not revise RG 1.187 or issue additional guidance; the NRC would retain the current guidance. This alternative is considered the no-action alternative and provides a baseline condition from which the staff can assess another alternative. If NRC does not take action, there would not be any changes in costs or benefit to the public, licensees, or the NRC. However, the no-action alternative would not address identified concerns with the current version of the regulatory guidance document. There would continue to be a potential for licensees to misinterpret the requirements governing the “departure from a method of evaluation” described in the FSAR which could impact public health and safety, the environment, and the common defense.

### Alternative 2: Withdraw RG 1.187

Under this alternative, the NRC would withdraw this RG. Withdrawal of the guide would eliminate the important information already provided regarding the implementation of 10 CFR 50.59 which allows licensees to make changes to their facilities and procedures as described in the FSAR, without prior NRC approval. It would also eliminate the only readily-available description of the methods the NRC staff considers acceptable for demonstrating compliance with 10 CFR 50.59.

### Alternative 3: Revise RG 1.187

Under this alternative, the NRC would revise RG 1.187. This revision would reduce ambiguity in supporting guidance documents. By issuing a revision, the NRC would ensure that the RG available in this area does not promote potentially misleading statements that may lead licensees to misinterpret the requirements governing the “departure of a method of evaluation” described in the FSAR.

The impact to the NRC would be the costs associated with preparing and issuing the RG revision. The impact to the public would be the voluntary costs associated with reviewing and providing comments to NRC during the public/stakeholder comment period. The value to NRC staff and NRC stakeholders would be the benefits associated with enhanced efficiency and effectiveness in using a guidance document with a reduced likelihood of misinterpretation of guidance for 10 CFR 50.59 requirements and potential impacts upon public health and safety, the environment, and the common defense.

## **Conclusion**

Based on this regulatory analysis, the NRC staff concludes that revision of RG 1.187 is warranted. The action will provide ample guidance for governing requirements, enhance licensee review of 10 CFR 50.59 screenings and evaluations, and result in cost savings for the industry.