

April 8, 1997

The Honorable Shirley Ann Jackson
Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Chairman Jackson:

SUBJECT: PROPOSED REGULATORY GUIDANCE RELATED TO IMPLEMENTATION OF
10 CFR 50.59 (CHANGES, TESTS AND EXPERIMENTS)

During the 440th meeting of the Advisory Committee on Reactor Safeguards, April 3-4, 1997, we met with representatives of the NRC staff and the Nuclear Energy Institute (NEI) regarding SECY-97-035, "Proposed Guidance Related to Implementation of 10 CFR 50.59 (Changes, Tests and Experiments)." We discussed the staff's approach to clarifying guidance for implementing 10 CFR 50.59 and proposed options for resolving policy issues.

Conclusions and Recommendations

We recommend that SECY-97-035, as now formulated, not be issued for public comment. We recommend, instead, additional NRC and industry interaction regarding this matter before the proposed guidance in SECY-97-035 is issued for public comment.

Discussion

The industry and staff have over 30 years of experience in implementing 10 CFR 50.59. Over this time, the staff has identified concerns in only a small subset of situations evaluated under 10 CFR 50.59. In SECY-97-035, the staff stated the following with regard to the current process and industry implementation of NSAC-125:

Although the staff has not endorsed NSAC-125, it has concluded, as discussed in the April 15, 1996, memorandum from James M. Taylor to Chairman Jackson, that NSAC-125 has given the nuclear power industry a reasonable foundation to establish a process that will, in most instances, produce effective evaluations related to changes to plant design or procedures. Changes of significance are highly likely to be identified by the licensee through implementation of the NSAC-125 guidance. Inspection results have confirmed that the quality of the evaluations of changes has improved since licensees began implementing the NSAC-125 guidance. However, the NSAC-125 guidance is not a requirement for any licensee, and

each licensee develops its own program for performing the required evaluations under 10 CFR 50.59.

The staff also found that difficulties arise in the licensee's day-to-day use of the 10 CFR 50.59 process when the staff and licensee have a different understanding and different expectations for implementation of the rule. The staff, therefore, is proposing additional regulatory guidance in SECY-97-035 to reduce the potential for deficiencies in implementing 10 CFR 50.59. Since the staff appears to agree that when the NSAC-125 guidance has been implemented properly it has generally resulted in satisfactory safety evaluations, it would seem more effective to work with the industry to build on NSAC-125. The goal would be for the staff to endorse an appropriate version of NSAC-125 with exceptions, as needed. It is our understanding that the industry has attempted to improve on NSAC-125 through the development of draft guideline NEI 96-07, "Guidelines for 10 CFR 50.59 Safety Evaluations." These improvements may well address many of the present concerns.

Sincerely,

/s/

R. L. Seale
Chairman

References:

1. SECY-97-035, Memorandum dated February 12, 1997, from H. L. Thompson, Jr., Acting Executive Director for Operations, NRC, for the Commissioners, Subject: Proposed Regulatory Guidance Related to Implementation of 10 CFR 50.59 (Changes, Tests and Experiments).
2. Memorandum dated April 15, 1996, from James M. Taylor, Executive Director for Operations, NRC, to Shirley Ann Jackson, Chairman, NRC, Subject: Action Plan for Improvements to 10 CFR 50.59 Implementation and Oversight.
3. Electric Power Research Institute, Nuclear Safety Analysis Center, NSAC-125, "Guidelines for 10 CFR 50.59 Safety Evaluations," June 1989.
4. Nuclear Energy Institute, NEI 96-07, draft Revision A, "Guidelines for 10 CFR 50.59 Safety Evaluations," July 1996.