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The Honorable Ivan Selin
Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Chairman Selin:

SUBJECT: PROPOSED FINAL RULE CHANGE TO 10 CFR 50.36, TECHNICAL
SPECIFICATIONS

During the 420th meeting of the Advisory Committee on Reactor Safeguards, April 6-7, 1995, we discussed with representatives of the NRC staff and the Nuclear Energy Institute the subject proposed final rule change to technical specifications. We had the benefit of the documents listed.

The "Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors," dated July 23, 1993, established four criteria to define requirements that should be controlled by technical specifications. The Commission concluded that it was appropriate to codify these criteria in a rule that would be consistent with the Policy Statement and preserve the voluntary nature of adopting the improved Standard Technical Specifications for previously licensed plants.

In our June 18, 1993 report, we stated our agreement with the views expressed by the Commission on this matter and concluded that the staff had appropriately modified the Policy Statement in response to the Commission's comments. We did express a concern that there was a need for more detailed guidance on the definition of "significant to public health and safety" as it is used in Criterion 4 of the final Policy Statement.

The staff proposes to implement Criterion 4 in a manner consistent with the Commission's policies on the use of probabilistic risk assessment methods and the staff's PRA Implementation Plan.

The staff maintains that the improved Standard Technical Specifications, the final Policy Statement, the Backfit Rule, and the statement of consideration for this proposed final rule change contain sufficient guidance for implementing Criterion 4. We do not agree with this position.

We have previously objected to regulations that are subject to a variety of interpretations which rely solely on the judgment of the regulator. In the interest of coherence in regulation and predictability of the regulatory process, we recommend that codification of the rule include more explicit definition and guidance on the implementation of the "significant to public health and safety" provision of Criterion 4. We believe a rule that omits this is not complete and will not meet the pressing need for a rule on Technical Specifications Improvements. We recommend delaying issuance of the rule until it is complete.

Sincerely,

T. S. Kress
Chairman

References:

1. Draft Commission Paper, from James M. Taylor, Executive Director for Operations, for the Commissioners, Subject: Final Rulemaking Package for 10 CFR 50.36, "Technical Specifications," (Predecisional) transmitted by Memorandum dated March 27, 1995, from B. K. Grimes to John T. Larkins
2. Staff Requirements Memorandum dated May 25, 1993, from Samuel J. Chilk, Secretary, for James M. Taylor, Executive Director for Operations, Subject: SECY-93-067 - Final Policy Statement on Technical Specifications Improvements
3. ACRS letter dated June 18, 1993, from J. Ernest Wilkins, Jr., ACRS Chairman, to Ivan Selin, NRC Chairman, Subject: Policy Statement on Technical Specifications Improvements for Nuclear Power Plants
4. Nuclear Regulatory Commission, 10 CFR Part 50, Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors, July 23, 1993
5. SECY-94-219 dated August 19, 1994, from James M. Taylor, Executive Director for Operations, for the Commissioners, Subject: Proposed Agency-Wide Implementation Plan for Probabilistic Risk Assessment (PRA)
6. Nuclear Regulatory Commission, "Use of Probabilistic Risk Assessment Methods in Nuclear Regulatory Activities: Proposed Policy Statement," issued for public comment on December 1, 1994

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