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SUBJECT: Comment opposing NUREG-1606, "Proposed Regulatory Guidance re Implementation of 10CFR50.59 (Changes, Tests or Experiments)."

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102-03969 - JML/SAB/MLG
July 10, 1997

U. S. Nuclear Regulatory Commission
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Dear Sirs:

Subject: Palo Verde Nuclear Generating Station (PVNGS)
Units 1, 2, and 3
Docket Nos. STN 50-528/529/530
Comments on NUREG-1606, Proposed Regulatory Guidance
Related to Implementation of 10 CFR 50.59 (Changes, Tests, or
Experiments), Draft Report for Comment, April 1997

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US NRC

Arizona Public Service Company (APS) is taking this opportunity to provide comments on the proposed regulatory guidance in NUREG-1606 regarding the implementation of 10 CFR 50.59. APS has performed a detailed review of the proposed guidance and has actively participated in the development of industry comments provided by the Nuclear Energy Institute (NEI). APS endorses the NEI comments and supports the industry initiative to implement the revised industry guidance contained in NEI 96-07, Guidelines for 10 CFR 50.59 Safety Evaluations.

The fundamental premise which led to the issuance of NUREG-1606 is that existing guidance for implementing the requirements of 10 CFR 50.59 does not adequately interpret what is meant by the rule's language and, therefore, does not comply with the regulation. This presumption is shown to be invalid in the introductory sections of the NUREG. The NRC states that industry guidance provides a reasonable foundation to establish a process that generally results in effective evaluations and concludes that changes of significance are highly likely to be identified by the licensee. NRC inspection results have confirmed that the quality of the evaluations of changes has improved since licensees began implementing the NSAC-125 guidance. Additionally, the NRC indicated that they have identified concerns with only a small subset of the total situations that licensees evaluate under 10 CFR 50.59. Therefore, the premise for developing NUREG-1606 is flawed because, in practice, existing guidance does comply with the regulation and the rule is currently achieving the purpose for which it was intended. In conclusion, industry development of NSAC-125 (which later became NEI 96-07) and its widespread acceptance as guidelines for utility 10 CFR 50.59

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Comments on NUREG-1606
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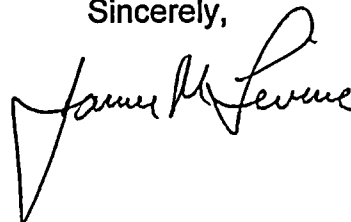
processes demonstrates general industry commitment to high quality 10 CFR 50.59 programs that ensures the NRC reviews necessary changes.

In many respects, NUREG-1606 parallels the 10 CFR 50.59 process currently used throughout the nuclear industry. It endorses processes and practices which are consistent with established industry guidance found in NEI-96-07, "Guidelines for 10 CFR 50.59 Safety Evaluations." In several key areas, however, it significantly diverges from the industry guidance which would result in a substantial change from current practice causing a significant increase in the number of changes industry-wide identified as unreviewed safety questions. Specifically, for the Palo Verde Nuclear Generating Station it is estimated that 10 to 20 additional license amendment requests would result per year using the NUREG-1606 guidance. We strongly believe that the types of issues which would require NRC approval under the proposed guidance would be of low safety significance and would divert industry and NRC attention from issues of greater safety significance. APS' comments on the significant policy changes which will cause the increase in the number of unreviewed safety questions are provided in the Enclosure to this letter.

APS appreciates this opportunity to provide comments and believes thorough evaluations of changes in accordance with 10 CFR 50.59 are an important responsibility. Proceeding with the proposed guidance in its current form will not contribute toward improving this process. APS believes the revised NEI guidance provides the tool necessary to perform sound evaluations. As a result, it is our conclusion that endorsement of NEI 96-07 by the industry and the NRC, rather than rule-making, is what is needed to achieve consistency and excellence in the performance of evaluations of changes to determine if prior NRC approval is required.

Should you have any questions or require additional information, please contact Scott A. Bauer at (602) 393-5978.

Sincerely,

A handwritten signature in black ink, appearing to read "James M. Levine". The signature is stylized with a large, sweeping initial "J" and a long, horizontal stroke extending to the right.

JML/SAB/MLG/mah

Enclosure

cc: E. W. Merschoff
K. E. Perkins
K. M. Thomas
F. L. Brush

ENCLOSURE

COMMENTS ON NUREG-1606

Increase in Probability

The NUREG-1606 position that "maybe" means "any uncertainty or doubt about whether an increase, even a negligible one, has occurred should lead to the conclusion that a USQ is involved" is inconsistent with the considerations applied during the initial rule-making. At the time, probabilities were considered in the four categories of ANSI N18.2 and an increase was only to be considered if there was a definitive change. Industry practice has actually gone beyond what was originally intended by stating that a USQ is involved if there is a "clearly discernible increase or trend" in probability. This guidance complies with 10 CFR 50.59 and has been endorsed by the NRC in their May 10, 1989 letter to NEI.

Malfunction of a Different Type

APS disagrees with the approach to categorically treat different causes of failure as a failure of a different type. Equipment malfunctions need to be evaluated based upon the effects of the malfunction. It is correctly stated in NUREG-1606 that "changes which alter the design, function, or method of performing the function of a SSC, as described in the SAR, are within the scope of 10 CFR 50.59". The focus is on determining if a safety function is affected by the change. As such, a malfunction needs to be evaluated to determine if its effect impacts a safety function. Implementation of the NUREG-1606 position would result in almost any substitution of equipment that is not identical involving an USQ. For example, if a solenoid-operated valve were replaced with an air-operated valve, an USQ would be involved under NUREG-1606 simply because the new valve could malfunction by loss of air when the previous valve could not. NRC review would be required even if the effect of the loss of air was bounded by the evaluations of the malfunctions of the solenoid-operated valve.

Reduction in Margin of Safety

The position that if an acceptance limit is not explicit, then the value reported in the SAR should be used as the acceptance limit is in error. Values in the FSAR were not necessarily established as limits and to propose to use them as such is incorrect. In many cases, values in the SAR reflect a calculated results for a given set of conditions which may not represent or establish a limit whatsoever. To now consider these values as limits would result in a significant increase in USQs. The industry guidance is conservative on this issue in detailing that margins of safety need to be looked for elsewhere than just the bases of the TS, but to default to a SAR value if no margin is otherwise found is a misuse of SAR information.

Increase in Consequences

10 CFR 50.59 does not establish the SAR reported dose values as the standard baseline for determining an increase in consequences. In fact, the NRC's own guidance on 10CFR 50.59 clearly establishes the NRC-specified limit in SER's as the baseline for determining increase in consequences. The NUREG-1606 interpretation is not the only correct interpretation of the regulation as existing guidance also meets the requirements of the rule and has been established by precedence.

Definition of Change

Removing equipment from service for maintenance if it is not addressed by a TS LCO should not require a 10 CFR 50.59 evaluation. Removing equipment from service to perform maintenance is not a change to the facility since an inherent assumption in the design of any plant is allowance for maintenance.

The fact that a system's allowed outage time is not addressed in the technical specifications means the system's safety significance does not warrant such control. For equipment that is not controlled by technical specifications but which is important enough to warrant controls on its availability, the maintenance rule provides the necessary controls based on safety significance.

