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**Docket:** NRC-2018-0109

Draft Letter to the Nuclear Energy Institute Regarding the Clarification of Regulatory Paths for Lead Test Assemblies

**Comment On:** NRC-2018-0109-0001

Draft Letter to the Nuclear Energy Institute Regarding the Clarification of Regulatory Paths for Lead Test Assemblies

**Document:** NRC-2018-0109-DRAFT-0003

Comment on FR Doc # 2018-12276

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## Submitter Information

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## General Comment

See attached file(s)

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## Attachments

COMMENTS ON DOCKET ID NRC-2018-0109

SUNSI Review Complete

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ADD= Sihan Ding, Kimberly Green &  
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COMMENT (3)

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COMMENTS ON DOCKET ID: NRC-2018-0109  
"CLARIFICATION OF REGULATORY PATHS FOR LEAD TEST ASSEMBLIES [LTAs]"

1. The draft NRC letter confuses licensee obligations to meet requirements, stated explicitly in regulations and technical specifications (TS), with verifications of licensee performance via the Reactor Oversight Process (ROP).
2. The NRC staff views and regulatory positions on LTAs constitute *de facto* industry-wide amendments to TS 4.2.1.
3. The NRC staff views and regulatory positions on LTAs constitute *de facto* industry-wide exemptions to 10 CFR 50.46.
4. The NRC staff views and regulatory positions on LTAs constitute *de facto* rulemaking to 10 CFR 50.46.
5. The NRC staff views and positions are new regulatory positions that warrant review in accordance with the Congressional Review Act.
6. The NRC staff positions fail to address any issues related to LTA licensing requirements for technical specifications (TS) in accordance with 10 CFR 50.36.
7. The NRC staff's views and positions indicate a lack of understanding of the design and licensing basis in stating that "LTAs will not invalidate either the safety analysis report (as updated)(UFSAR) Chapter 15 transient and accident analysis or the core operating limits report (COLR) limits." Other design and licensing basis requirements apply to LTAs.
8. The NRC staff's views and positions lack technical and regulatory understanding of the provisions of the Core Operating Limits Report (COLR) with respect to the use of NRC-approved methods for core reload.
9. The NRC staff views are overly optimistic and present an industry-biased position in stating, "The NRC staff expects licensees will use good engineering judgment and analytical codes and methods that restrict well-established engineering practices and consideration of risk to confirm that, the insertion of LTAs, the COLR limits and UFSAR Chapter 15 transient and accident analysis remain applicable and bounding.
10. The NRC staff avoidance of 10 CFR 50.68 for criticality, 10 CFR 71 for shipping and transportation, and 10 CFR 72 for independent spent fuel storage installations is an inexcusable deferral of issues important to LTAs (e.g., Hatch deferral on some LTA plans because of shipping approvals).
11. The NRC staff position on 10 CFR 50.46 reveals a gap in NRC regulatory requirements for emergency core cooling acceptance criteria for cladding other than Zircaloy and Zirlo and fuel other than UO2.
12. The NRC staff views and positions are incoherent with regard to loading of LTAs, "for cladding material outside the scope of 10 CFR 50.46." The regulations in 10 CFR 50.46 do not have any separate provisions for LTAs. The NRC position states that "the acceptance criteria would be evaluated as part of an amendment request for batch loading of fuel." The connection to "amendments" from 10 CFR 50.46 is not apparent, but neglecting the need for an "exemption" seems a glaring oversight or willful omission.
13. The NRC staff positions fail to address 10 CFR 50, General Design Criterion 10, "Reactor design."
14. The NRC staff views and positions fail to address, in any manner, the expectation that Topical Reports will be developed to support the technical bases and regulatory approvals for LTAs.

15. The NRC staff views and positions do not address changes in plant chemistry, radiation protection to workers, and dose to members of the public from new materials never before having been placed in reactors.
16. The NRC staff has failed to execute any lessons learned, from failed steam generators and flawed 10 CFR 50.59 evaluations at San Onofre Nuclear Generating Station (SONGS), in its review of LTA changes made under 10 CFR 50.59.
17. The Reactor Oversight Process (ROP) failed to evaluate and take enforcement for LTA implemented under 10 CFR 50.59. The Office of the Inspector General (OIG) should investigate ROP failings for LTAs executed under 10 CFR 50.59 and recommend ROP program improvements and enforcement, as appropriate.
18. The NRC staff views and positions fail to give due consideration to the points raised by the non-concurrence. A public meeting should be scheduled to allow members of the public to meet with the submitters of the non-concurrence.
19. The NRC staff has offered an industry-biased perspective, in both examples and quotations. The redacted portion of the non-concurrence should be released for public comment.
20. The public comment period, that closes June 27, should be extended to July 31, 2018.