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

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Draft Letter to Nuclear Energy Institute Regarding Clarification of Regulatory Paths for Lead Test Assemblies SUNSI Review Comp

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Name: Anonymous Anonymous

General Comment

Instead of issuing the draft letter, the NRC staff should issue a generic communication to inform licensees that the STS LTA provision is insufficient to ensure plant safety. Plants should enter this issue into their corrective action program, and resolve the issue in accordance with NRC Administrative Letter 98-10.

The STS LTA provision does not adequately protect plant safety and does not meet 10 CFR 50.36. According to the draft letter, the STS LTA provision does not limit the design of LTAs. This would allow licensees to use LTAs that could significantly impact plant safety. For example, licensees could use LTAs without cladding, which would eliminate one layer of defense-in-depth. Since the letter indicates that 50.46 does not apply to LTAs, licensees with the STS LTA provision could use designs that could not survive a design-bases event. For example, an LTA would not have to maintain a coolable geometry or could generate hydrogen in excess of the 50.46 criterion. 50.36(c)(4) specifies the requirements for design features to include in TS. The STS LTA provision directly conflicts with 50.36(c)(4) because it allows licenses to use materials or geometric arrangements in fuel assemblies that have a significant effect on safety.

In addition, the LTA provision was not adequately described when it was developed. The response to the nonconcurrence states that this provision was issued for public comment. However, without an adequate description to indicate that the only requirements that applied to LTAs are the first and last sentence of the STS LTA provision, it is more likely that the public would follow the plain language reading of this provision. In other words, members of the public were led to believe that all sentences within the STS LTA provision were applicable to LTAs. Therefore, members of the public were not provided with a meaningful opportunity to comment.

The same holds true for license amendments to adopt the STS LTA provision. A review of some LARs indicates that licensees requested to adopt the provision, but did not state that only the first and last sentence of the STS LTA provision applied to LTAs. In addition, the LARs do not provide any technical justification for the use of LTAs with no limitations on their design. The adoption of the LTA provision should have provided information similar to what is provide for use of a new fuel design. The SEs also do not provide any bases other than to state the provision is consistent with the STS. Therefore, the notice for comment and hearing on these amendments were deficient. The public was not provided adequate information to understand these requests; therefore, it was effectively denied an opportunity to comment on the NSHC and to request a hearing. Given that the LTA provision places no limitation on the design of fuel assemblies, this represents a significant departure from previous operations which, if properly considered, could be considered an action that involved a significant hazard.

The response to the nonconcurrence indicates that past versions of the STS provision had more specific requirements for fuel assemblies, but do not mention LTAs. However, this response does not explain whether or not the older STS provisions applied to LTAs or not. If these older STS provisions applied to LTAs, then the addition of the last sentence to allow a limited number of LTAs is more of a clarification than a change in requirements. If these older STS provisions did not apply to LTAs, then it is likely that these provisions were deficient since licensees would have unrestricted use of LTAs. The NRC should clarify these older provisions, and, if necessary, include them within the scope of the generic communication mentioned above.

The NRC should require licensees to adequately describe changes in license amendment requests so that they can be understood. The notice of the LAR should clearly explain what is being changed, particularly when a plain language reading of the change would lead to a different understanding. For future changes to adopt the STS LTA provisions, or a similar provision, licensees should be required to justify the change with the same level of detail as is done for fuel transition amendments. The NRC should not approve LTA provisions that are not specific on the types of material, geometry, and other design criteria that are need to demonstrate adequate performance of the LTA during both normal and accident conditions.