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

Comment On: NRC-2018-0109-0002

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

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General Comment

The NRC should not issue the LTA letter. It does not adequately consider past precedent, or chooses to ignore past precedent. Instead, the NRC to agree to an expedited licensing process for LTAs and it should work with industry to improve the STS LTA provision, including an appropriate basis for the provision.

Section 4.2.2 of NEI 96-07, Rev. 1, clearly indicates that operation with fuel demonstration assemblies would require a 50.59 evaluation unless they were not already described in the UFSAR. The draft letter appears to conflict with this NRC-endorsed guidance, as well as the regulations in 50.59. It would be more appropriate for the NRC to revise its endorsement through its normal process rather than issuing a letter to NEI. In addition, this change in position may constitute a backfit and should be reviewed by the CRGR.

SRP Section 4.2, Fuel System Design, discusses the NRC staffs review of prototype testing of new fuel designs. The letter should discuss this guidance and explain how it is consistent with the SRP. The letter should explain how the generic approval of the STS LTA provision, that does limit the design of LTAs, considered SRP Section 4.2.

The letter should discuss the requirements (e.g., criticality analysis) associated with locating LTAs with other new fuel prior to loading and in the spent fuel pool. It is unclear how a licensee can meet existing criticality safety analysis or thermal analysis for the spent fuel pool with LTAs that use different cladding, no cladding, different uranium compounds or metals, or MOX fuels.

The letter states in multiple places that it provides interpretations of NRC regulations. The letter should

identify what specific interpretations are being made with consideration of the regulations in 50.3. It is unclear what interpretations are considered binding, and what interpretations are subject to change.

The letter indicates that in many cases a licensee does not need an amendment and exemption to use LTAs. However, the NRC has reviewed and approved a number of amendments and exemptions for the use of LTAs, and it has some currently under review. This suggests that either:

(1) The NRC has been wasting resources for decades reviewing unnecessary amendments and exemptions, and the staff failed to conclude that the amendment or exemption was not required. In addition, since 50.46 apparently does not apply to LTAs, the staff did not actually grant an exemption from the regulation.

OR

(2) The positions taken the letter are incorrect.

If the NRC decides to issue the letter, it should explain why it unnecessarily reviewed and approved amendments and exemptions for LTAs. The NRC should identify steps it is taking to rectify these past mistakes (e.g., refunding licensees, training staff, revising the SRP). The NRC should identify specific amendments or exemptions that were necessary, and explain how this is consistent with the guidance in the letter.

The letter states that 50.46 does apply to LTAs. Therefore, past exemptions from 50.46 for LTAs were unnecessary. The NRC should explain whether or not licensees still need to comply with statements made in exemption requests or any limitations placed on exemptions from 50.46 for use of LTAs.

The letter states that a licensee may choose to submit a license amendment request to use LTAs. The NRC should explain why it would accept unnecessary amendments for review and justify spending Agency resources on such reviews. In addition, this statement could be misinterpreted to mean that 50.59 offers licensees a choice on whether or not to submit an amendment for LTAs.