



NUCLEAR ENERGY INSTITUTE

Rolph E. Beedle

SENIOR VICE PRESIDENT AND  
CHIEF NUCLEAR OFFICER  
NUCLEAR GENERATION

January 16, 1998

Mr. Samuel L. Collins, Director  
Office of Nuclear Reactor Regulation  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Dear Mr. Collins:

Your letter dated January 9, 1998, provided comments on NEI 96-07, Revision 0, *Guidelines for 10 CFR 50.59 Safety Evaluations*. While we welcome the staff's review and comments on the document, there appears to be a misunderstanding of the intent of the industry initiative associated with NEI 96-07. More importantly, however, we believe it was inappropriate to state that potential enforcement action may be taken against licensees based on evolving staff interpretations of rule language that has remained unchanged for almost thirty years.

The purpose of the industry initiative on NEI 96-07 is to ensure consistent and effective industrywide implementation of 10 CFR 50.59 programs. The intent of obtaining a commitment from all licensees to the initiative is to preclude a repeat of the problems found by the NRC in some licensee programs over the last few years. We remain confident that the initiative will achieve this goal. Based on our prior discussions with the Commissioners and senior NRC management, we had anticipated agency support of this initiative.

The areas in NEI 96-07 in which you noted that implementation of the guidance may result in enforcement action are consistent with the guidance in NSAC 125. Since 1989, most licensees have been implementing 10 CFR 50.59 using that guidance. Even though NSAC 125 was not endorsed by the NRC at that time, licensees have not been subjected to enforcement action for using the guidance in these areas. Therefore, your explicit mention of potential enforcement action is disturbing in that it represents a change in the NRC's treatment of these areas.

The NRC has a well-established process, 10 CFR 50.109, for changing its positions or interpretations on methods that are acceptable for compliance with the regulations. We note that the staff views provided in your comments on NEI 96-07 are similar to those published for comment in NUREG-1606 last year. At that time, it was stated in the *Federal Register* Notice that, "Any changes in industry guidance or requirements will be subject to 10 CFR 50.109 backfit review before issuance."

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Allowing interpretations of compliance to shift or evolve when the actual requirements have not changed imposes an unnecessary burden on licensees and is a primary cause of regulatory instability. We regret that this has occurred in this instance on a regulation that is so frequently exercised and so fundamental to the regulatory process.

The industry will continue to work with the NRC toward closure of the remaining issues associated with 10 CFR 50.59. It is imperative that these issues be resolved in 1998 on an expedited basis.

Sincerely,

A handwritten signature in dark ink, appearing to read 'R. Beedle', with a long horizontal flourish extending to the right.

Ralph E. Beedle