

May 17, 1999

Dr. Carl J. Paperiello, Director
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
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Washington, D.C. 20555-0001

**REFERENCE: Comments on the Revised Part 70 Draft Standard Review Plan
(NUREG-1520)**

Dear Dr. Paperiello:

On April 27, 1999 the Nuclear Regulatory Commission (NRC) posted on its Web site a revised draft Standard Review Plan (SRP) for Part 70 licensees. In response to a request for comments by May 12, 1999, the Nuclear Energy Institute (NEI)¹ has conducted a preliminary review of this revised SRP and offers the following comments on behalf of the commercial fuel cycle industry.

First, NEI strongly recommends that the Nuclear Regulatory Commission (NRC) post on the Web the latest version of the Part 70 rule revisions to which the draft SRP applies. As the SRP provides guidance in implementation of the rule, meaningful assessment of the revised draft SRP can not be undertaken until the Part 70 rule to which it applies is also available. The latest revision of the Part 70 rule has not been publicly released by the NRC. NEI can not, therefore, confirm that the draft SRP accurately reflects provisions of the revised rule, or make meaningful comments on the draft SRP. Additionally, review of a complex and important document, such as NUREG-1520, within the NRC's eleven business day comment period was not possible, nor does the industry believe it is necessary to "rush" review of the SRP. Rather, NEI recommends that the NRC approach review of the SRP with the same open and diligent process used to

¹ NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

develop the Part 70 rule revisions themselves. In this regard, we believe the approach taken by the NRC of assigning a dedicated task force to work with all stakeholders to complete revision
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of the Part 70 rule has worked well and has expeditiously completed drafting of a risk-informed, performance-based Part 70 rule. We recommend that this task force remain intact for several additional months to revise NUREG-1520 in a manner that accurately reflects the content of the Part 70 rule.

Due to the limited time to provide comments, this letter only addresses certain generic concerns which do not appear to have been adequately addressed in individual SRP chapters. NEI has previously provided detailed comments to the NRC on three SRP chapters: 'Nuclear Criticality Safety' (Ch. 5), 'Chemical Safety' (Ch. 6) and 'Decommissioning' (Ch. 10). We commend the staff for addressing issues raised by NEI in these topics through incorporation of many of our suggested improvements. For many of the remaining SRP chapters, few revisions (other than correcting rule citations) appear to have been made, prompting concern that the draft SRP has not yet been revised to endorse rule changes that we understood would be made as a result of the discussions at the March, 1999 Part 70 Public Meeting.

Major issues of concern with the draft SRP that NEI has identified from our review to date include the following:

ISA and ISA Summary: There remains confusion over the use of the ISA and the ISA Summary in the SRP. These terms are frequently used interchangeably and the level of detail expected in the latter is unclear. The introduction to the SRP states that an applicant's Safety Program Description (§70.62(a)) is "...*incorporated in the NRC license by reference...*" and that it should contain "...*all of the topics in the Table of Contents of this SRP...*" The Table of Contents includes discussion of the ISA and ISA Summary, but neither is, in fact, to constitute part of the license. The licensee is limited to the commitment to perform an ISA and its performance is subject to specific criteria (i.e. personnel and qualifications, hazard analysis methods, training, etc.)

SRP Chapter 3 ('ISA') requires more considered evaluation than time has permitted, but NEI will shortly submit additional comments. However, the following suggestions have been identified. The chapter's structure should be changed to provide separate guidance on the acceptance criteria (format, level of detail and content) for an 'ISA' and an 'ISA Summary.' Safety Performance Measures appear to be incorporated that have no reference in the Part 70 rule. Many terms no longer used in the rule (e.g. '*consequence of concern*', '*human-system interface analysis*') continue to be used in this chapter. There are also confusing references between the usage of the terms 'items relied on for safety' and 'management measures.'

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Hazardous Chemicals: The issue of Chemical Process Safety is not uniformly treated in individual SRP chapters. The boundaries of NRC and OSHA jurisdiction appear to be accurately incorporated into SRP Chapter 6 (*'Chemical Process Safety'*). However, in SRP chapters 7, 8 and 9 the applicant is expected to address non-radiological releases to the environment, to incorporate procedures for emergency management of purely hazardous chemicals and to discuss potential impacts to fire safety by purely hazardous chemicals. The SRP requires an applicant to address NEPA non-radiological requirements which fall outside of the NRC's jurisdictional responsibility. In several chapters, the third principle of the NRC/OSHA Memorandum of Understanding (*'chemical risks from plant conditions'*) has been overlooked or omitted.

Regulatory References: Chapter 10 (*'Decommissioning'*) references as the relevant guidance an SRP that is only under preparation (*'NMSS Decommissioning SRP'*). NEI can't offer constructive comments on these review requirements until this new NUREG is made available for public comment. Until this new decommissioning SRP is available, Chapter 10 should reference Reg. Guide 3.66 (*'Standard Format and Content of Financial Assurance Mechanisms Required for Decommissioning under 10 CFR Parts 30, 40, 70 and 72 (June 1990)'*) as the applicable guidance. Another example of incorrect regulatory guidance is reference to NUREG-1324 in SRP Chapter 2; this NUREG is not cited anywhere in the SRP and it is not applicable to fuel cycle facilities.

Management Measures: SRP Chapter 11 includes the requirements to establish a formal NQA-1 quality assurance program and to endorse a systems approach to training. NEI has previously commented upon the excessiveness of these two requirements and understood that these comments were being accepted by the NRC.

Inaccurate Rule References: Several instances where the SRP does not accurately reflect rule provisions, as we understand them, have been noted. For example, SRP Chapter 1.2 requires the applicant to demonstrate no *'foreign controlling interest'* in a fuel cycle facility. Neither the Atomic Energy Act nor Part 70 prohibits foreign ownership or control of a Part 70 facility. SRP Chapter 9 requires an existing licensee to implement a waste management program (in accordance with 10 CFR 20.1406), whereas we understand the rule specifically excludes existing licensees from this requirement.

Baseline Design Criteria: Licensee adherence to Baseline Design Criteria (BDC) is inconsistently treated amongst different SRP chapters. Existing facilities are sometimes

required to adhere to them in the case of a new process installed at existing facilities. NEI recommended in its letter of March 26, 1999 that

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BDC should not be backfitted onto existing facilities or processes and only apply to new processes at existing facilities. NEI recommends that they *only* apply to new processes at existing facilities if such installation requires a license amendment under §70.72 for implementation.

Fire Safety: The Fire Safety chapter of the SRP has been significantly improved. Inclusion of the Fire Hazards Assessment as a component of the ISA is a logical betterment. NEI still questions the need, however, for Pre-Fire Plans for individual buildings.

Technical Editing: The entire SRP is in need of technical editing to ensure uniformity amongst chapters in the use of terminology, in approaches to establish acceptance criteria (e.g. reliance on license commitments *versus* performance criteria), in correcting rule citations and in reducing remaining instances of prescriptiveness and duplication.

We appreciate the opportunity to review the draft SRP. Upon release of the revised Part 70 rule revisions, NEI and its fuel cycle industry members will complete a detailed review of draft NUREG-1520 as requested by the NRC in its May 12, 1999 request for comments. If you or your staff would like to discuss the comments offered herein or the process for completing the review of the SRP, please advise.

Sincerely,

Marvin S. Fertel

cc: The Honorable Shirley A. Jackson, Chairman, NRC
The Honorable Greta J. Dicus, Commissioner, NRC
The Honorable Nils J. Diaz, Commissioner, NRC
The Honorable Edward McGaffigan, Jr., Commissioner, NRC
The Honorable Jeffrey S. Merrifield, Commissioner, NRC
Dr. William D. Travers, Executive Director for Operations, NRC