



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 2, 2001

MEMORANDUM TO: E. William Brach, Director
Spent Fuel Project Office, NMSS

FROM: Susan F. Shankman, Deputy Director */RA/ (M.W. Hodges for
Spent Fuel Project Office, NMSS S.F. Shankman)*

SUBJECT: PUBLIC COMMENTS AND PROPOSED FINAL
REGULATORY GUIDE, "GUIDANCE FOR IMPLEMENTATION
OF 10 CFR 72.48, CHANGES, TESTS, EXPERIMENTS"

BACKGROUND

The Nuclear Regulatory Commission (NRC) issued Draft Regulatory Guide DG-3020, "GUIDANCE FOR IMPLEMENTATION OF 10 CFR 72.48, CHANGES, TESTS, AND EXPERIMENTS," for public comment in December 2000. A notice was published in the Federal Register making the documents available for public comment with the public comment period ending on January 22, 2001. The NRC Draft Regulatory Guide DG-3020 endorsed, with a few clarifications, draft Nuclear Energy Institute (NEI) guidance document NEI 97-06, Appendix B entitled, "GUIDELINES FOR 10 CFR 72.48 IMPLEMENTATION." The NEI guidance document closely follows the guidance document used to implement the requirements of the revised 10 CFR 50.59 because the requirements of 10 CFR 50.59 and 10 CFR 72.48 are virtually identical. The NRC endorsed the NEI guidance on 10 CFR 50.59 in Regulatory Guide 1.187 in November of 2000. The Commission approved publication of the Regulatory Guide in Staff Requirements Memorandum, "SECY-00-0203 - FINAL REGULATORY GUIDE ON IMPLEMENTATION OF 10 CFR 50.59 (CHANGES, TESTS, AND EXPERIMENTS)," on November 14, 2000.

This memorandum summarizes all of the public comments received on the DG-3020 and describes how the comments were considered in the development of the final Regulatory Guide. As a result of the public comments, modifications have been made to the proposed final 10 CFR 72.48 Regulatory Guide. Enclosed is a copy of the proposed final Regulatory Guide that provides guidance to implement the requirements of 10 CFR 72.48.

PUBLIC COMMENT SUMMARY

Four public comment letters were received by the NRC. The comments were generally supportive of the draft regulatory guide. One comment letter was received from the NEI (Ref. 4). NEI organized a 72.48 Issue Task Force that made specific regulatory guidance comments and equivalent changes to the draft NEI 97-06, Appendix B guidance document. Subsequently, in response to the NRC request for public comment, on January 30, 2001, NEI submitted a revised version of NEI 97-06, Appendix B, which was dated January 26, 2001 (Ref.

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5). Two comments were received from licensees (Ref. 2 and 3), both endorsing the NEI comments. One comment letter was received from a cask certificate holder which also endorsed the NEI comments.

METHOD OF EVALUATION COMMENTS

DG-3020 Section 1.1, "Departure From a Method of Evaluation Described in the FSAR," identified three clarifications to the NEI-97-06 guidance document. The first clarification pointed out that an example associated with the use of methodology benchmarking, to demonstrate the concept of conservative versus non-conservative changes, could be confusing for spent fuel cask applications. Because the example was directed to reactor operations, the NRC suggested that the NEI guidance be expanded to illustrate the concept. In response, NEI proposed two changes that clarify the guidance. The changes make it clear that the demonstration of a methodology as being conservative must be evaluated over the entire range of the intended use of a methodology. Because the revised NEI guidance incorporates the clarifications, suggested by the NRC associated with the benchmarking, the clarification is no longer needed in the final Regulatory Guide and has been removed.

The second clarification suggested revision of an example in the guidance associated with the NRC approval of methods. The NRC maintained that the example did not accurately describe a typical NRC technical review. NEI subsequently proposed a revision to the example in the NEI guidance, as suggested in DG-3020. Because the revised NEI guidance incorporates the clarifications, suggested by the NRC associated with the NRC approval of methods, the clarification is no longer needed in the final Regulatory Guide and has been removed.

The third clarification explained how NRC reviews are typically performed and how "approved by the NRC for the intended application," should be applied. With a few minor changes, NEI incorporated the proposed clarification into the revised NEI guidance. Because the revised NEI guidance incorporates the clarifications, suggested by the NRC associated with how "approved for the intended application" should be applied, the clarification is no longer needed in the final Regulatory Guide and has been removed.

One comment was received regarding how "method of evaluation" is defined (Ref. 1). The comment stated that a better definition of "method of evaluation" is needed and that Part 72 safety analysis activities require more guidance than a Part 50 safety analysis. Specifically, the comment suggested that the term be defined at a high level. Although the staff agrees that there are differences in the specific analyses and methods used in Part 50 and Part 72, the staff does not agree that term "method of evaluation" should be defined differently or implemented differently. The term "method of evaluation" was defined in the Statements of Consideration for both of the final 10 CFR 72.48 and 10 CFR 50.59 rules (64 FR 53582). The NRC believes that this definition is appropriately implemented in NEI 96-07, Appendix B. The staff did not change the final Regulatory Guide as a result of this comment.

FISSION PRODUCT BARRIER COMMENT

DG-3020 Section 1.2, "Design Basis Limit for a Fission Product Barrier," identified a problem associated with the list, in the NEI guidance, of typical fission product barrier design basis limits. The NRC, in DG-3020, proposed revising the example. NEI subsequently revised the example

to incorporate NRC's revision. Because the revised NEI guidance incorporates the revisions, suggested by the NRC associated with fission product barrier limits, the clarification is no longer needed in the final Regulatory Guide and has been removed.

EDITORIAL COMMENTS

One comment was received indicating that the phrasing of DG-3020, Section B associated with relationship of the guidance for 10 CFR 72.48 and 10 CFR 50.59 could cause confusion (Ref. 2). Specifically, the comment recommended that the term "generally applicable" in DG-3020, associated with the 10 CFR 72.48 guidance being generally applicable to 10 CFR 59.59 evaluations, be replaced by the term "similar." The NRC already asserts that the two guidance documents are similar, as DG-3020 characterizes the two documents as being "virtually identical." However, the NRC acknowledges that the phrasing in DG-3020 may inadvertently cause confusion in the future. After reviewing the entire regulatory guide, the NRC has concluded that statement does not contribute to the guidance provided by the document and can be removed without altering the overall intent of the guidance. As a result of the public comment and to avoid the potential for confusion in the future, the sentence has been eliminated from the final Regulatory Guide.

NEI has included a number of editorial changes in the final NEI-96-07, Appendix B, and described each of the specific changes in their comment letter (Ref. 4). The editorial changes clarify previous statements and were inserted by NEI to prevent misunderstandings. The changes include replacing the term "cask designs used" with "casks deployed," removing a reference to occupational exposure when describing the requirements of 10 CFR Part 72, and explicitly restating the requirements of 10 CFR 72.212. The NRC has reviewed these editorial changes and found them to be acceptable.

CONCLUSION

The staff has reviewed the public comments on DG-3020, which were generally supportive of the draft regulatory guide and the NEI guidance. The staff has also reviewed changes incorporated into the latest version of NEI 96-07, Appendix B (Ref. 5). The staff has determined that NEI-96-07, Appendix B adequately implements the requirements of 10 CFR 72.48. As a result of the public comments, we have made revisions to the final Regulatory Guide. The proposed final Regulatory Guide will endorse NEI-96-07, Appendix B, dated January 26, 2001, without exception.

REFERENCES

1. Letter from B. Gutherman, Holtec International, "Comments on Draft NRC Regulatory Guide DG-3020," January 18, 2001.
2. Letter from M. Tuckman, Duke Power Company, "Comments on Draft Regulatory Guide DG-3020, 'Guidance for Implementation of 10 CFR 72.48, Changes, Tests and Experiments,'" January 23, 2001.
3. Letter from S. Bauer, Arizona Public Service Company, "Palo Verde Nuclear Generating

Station (PVNGS), Units 1, 2, 3, Docket Nos. STN 50-529/529/530, Comments on Draft Regulatory Guide DG-3020, 'Guidance for Implementation of 10 CFR 72.48, Changes, Tests, and Experiments,'" January 23, 2001.

4. Letter from L. Hendricks, Nuclear Energy Institute, "Draft Regulatory Guide DG-3020, 'Guidance for Implementation of 10 CFR 72.48, Changes, Tests, and Experiments,'" January 22, 2001.

5. Letter from L. Hendricks, Nuclear Energy Institute, "NEI-96-07 Appendix B: 'Guidelines for 10 CFR 72.48 Implementation,'" January 30, 2001.

ATTACHMENT: Proposed Final 10 CFR 72.48 Regulatory Guide

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Nuclear Energy Institute

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M. Tuckman
Duke Power Company

B. Gutherman
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4. Letter from L. Hendricks, Nuclear Energy Institute, "Draft Regulatory Guide DG-3020, 'Guidance for Implementation of 10 CFR 72.48, Changes, Tests, and Experiments,'" January 22, 2001.

5. Letter from L. Hendricks, Nuclear Energy Institute, "NEI-96-07 Appendix B: 'Guidelines for 10 CFR 72.48 Implementation,'" January 30, 2001.

ATTACHMENT: Proposed Final 10 CFR 72.48 Regulatory Guide

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Nuclear Energy Institute

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Arizona Public Service Company

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Holtec International

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DATE	3/2/01		3/2/01		3/2/01					

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Proposed Final 10 CFR 72.48 Regulatory Guide