



NUCLEAR ENERGY INSTITUTE

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June 10, 2010

Mr. Daniel H. Dorman
Director, Division of Fuel Cycle Safety
and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Feedback on April 27, 2010 Public Meeting on Design Features and Suggested Path Forward

Project Number: 689

Dear Mr. Dorman:

On behalf of the fuel cycle industry, the Nuclear Energy Institute (NEI)¹ appreciates the opportunity to further discuss the issue of design features and review the draft guidance information during the public meeting on April 27, 2010. This letter provides feedback on the April meeting and suggests a path forward for NRC's consideration and discussion during the next meeting scheduled for June 28, 2010.

Industry discussions after the April meeting concluded that the draft guidance information developed by the staff does not reflect current NRC-approved industry programs or the January 2010 industry position paper. Because the guidance information provided in preparation of the April meeting was stated by your staff to be in an early form, we elected not to provide detailed comments on the guidance at this time.

Industry believes it is necessary to develop a clearly defined basis regarding the applicability and use of design features and bounding assumptions in facility safety programs and integrated safety analyses (ISA). A viable path forward includes the following elements as supported by the two attachments to this letter:

- The ISA work performed to date, in accordance with the NRC-approved methodologies and ISA Summaries, should be accepted by NRC as compliant with the regulations. Continuing work by NRC staff with industry using the existing approved basis as a reference is needed to provide

¹NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry. 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, nuclear material licensees, and other organizations and individuals involved in the nuclear energy industry.

additional guidance in NUREG-1520. Also, NRC could consider rulemaking to further clarify the definition and use of ***Design Features, Bounding Assumptions and Initial Conditions***.

- Findings in question that are raised during inspections and licensing actions, where the licensee has followed their approved methodology and the internal implementing procedures, should be held in abeyance and used in the public discussions to clarify potential guidance or future rulemaking on these matters. Industry is not however through this letter petitioning the NRC to conduct such a rulemaking.
- Certain aspects of the draft information provided in April tend to require an excess number of features to be identified as IROFS and, as a result, potentially dilute the attention applied to more risk-informed elements of the safety program and appear counter intuitive to and not supportive of the more risk-informed, performance-based objectives set forth in the rule. NRC could consider rulemaking to effect its desired outcome; industry is not however through this letter petitioning the NRC to conduct such a rulemaking.
- It appears from the discussions that a few NRC desired reporting or notification requirements may not have been included in the new Part 70. Consideration of this issue should be included in the proposed clarifying guidance and or rulemaking noted above.

We respectfully request full management and staff consideration of the contents of this letter, the information presented at the three public meetings, and the January 22, 2010 industry position paper. We welcome a substantive NRC response to our position paper and support the next meeting scheduled for June 28. We also encourage NRC to resolve this matter swiftly so as to avoid additional confusion relative to licensees' safety programs and inspection and enforcement activities. Industry views this as the highest priority issue to reach resolution in the near term.

Thank you for your prompt consideration of this matter. If you would like to discuss this matter prior to June 28, I can be reached at 202-739-8098; jrs@nei.org.

Sincerely,



Janet R. Schlueter

Attachments

c: Ms. Catherine Haney, NMSS, NRC
Mr. Michael F. Weber, EDO, NRC