



NUCLEAR ENERGY INSTITUTE

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Marvin S. Fertel  
SENIOR VICE PRESIDENT  
AND CHIEF NUCLEAR OFFICER

April 30, 2004

The Honorable Nils J. Diaz  
Chairman  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Dear Chairman Diaz:

The NRC staff submitted for your approval a proposal for a final risk-informed, performance-based fire protection rule. This rule provides an opportunity for licensees to better focus future program improvements in areas where there is a demonstrated safety impact. NEI has worked with NRC staff over several years to draft a rule and implementing guidance that addresses both staff and industry goals. We encourage your approval of the rule and encourage expeditious staff approval of the implementing guidance.

Licensees will need to carefully consider the merits and cost-benefit of making a transition from the existing fire protection licensing basis of nearly 20 years' duration to a new and untested regulatory framework. An optimized transition path that meets regulatory goals and facilitates licensee implementation is desirable. As you consider the staff's proposal, we offer a few important points related to this transition. The most important points are discussed briefly below while additional detail on these and other points are provided in the enclosure.

1. Requirement for a license amendment to utilize performance-based alternatives to NFPA 805 Chapter 3 methods

Comment Summary: Industry proposes that topical reports, referenced by licensees, be acceptable as an alternative to license amendments for adopting performance-based alternatives to Chapter 3 methods proposed in the SECY. Use of the license amendment process for considering alternatives could become a significant burden on industry and staff resources because of the large number of methods (all deterministic) in Chapter 3, and the number of licensees that potentially will adopt this rule. Provisions for NRC approval of topical reports would alleviate this burden, and would be consistent with the staff provision in the SECY for using topical reports for the use of PRA and

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fire modeling.

2. Granting of enforcement discretion during the period until the licensee has transitioned to 10 CFR 50.48(c)

Comment Summary: Industry agrees with the staff that granting enforcement discretion for noncompliances during the period until the licensee has transitioned to 10 CFR 50.48(c) is appropriate. Allowing licensees a suitable amount of time to adopt a risk-informed licensing structure will help resolve current regulatory issues in a safety-focused manner that maintains compliance. We also agree that these current issues should meet the criteria described in the SECY to qualify for this provision.

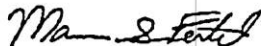
3. Resource estimates for licensee implementation of the rule change

Comment Summary: The dollar and man-hour estimates for licensee implementation should be lowered to reflect the experience gained during the industry evaluation of the implementing guidance for this rule. Licensees will be less likely to make this transition if the costs are perceived to be too high.

We look forward to the completion of the rule and staff approval of the implementing guidance NEI will submit after the rule is final.

If you have any questions, please call me directly at 202-739-8125, or Mr. Alex Marion, Senior Director, Engineering, at 202-739-8080.

Sincerely,



Marvin S. Fertel

Enclosure

- c: The Honorable Edward McGaffigan, Jr., Commissioner, NRC  
The Honorable Jeffrey S. Merrifield, Commissioner, NRC  
Dr. William D. Travers, Executive Director for Operations, NRC  
Samuel J. Collins, Deputy Executive Director for Reactor Programs, NRC  
James E. Dyer, Director of the Office of Nuclear Reactor Regulation, NRC