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Draft Letter to the Nuclear Energy Institute Regarding the Clarification of Regulatory Paths for Lead Test Assemblies

Comment On: NRC-2018-0109-0002

Draft Letter to Nuclear Energy Institute Regarding Clarification of Regulatory Paths for Lead Test Assemblies

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General Comment

Contrary to statements in the draft letter to NEI the regulatory history of the technical specification language is quite clear. While some are trying to attribute a new meaning to the language proffered for adoption in Generic Letter 90-02, Supplement 1 or make a distinction between the same language that appears in standard technical specifications, both arguments are without substance. The Generic Letter supplement proffered technical specification language for adoption by licensees and this document dealt with fuel reconstitution. The added LTA language addressed an NRC mandate that reconstituted fuel be tested. Thus an allowance to allow representative testing of LTA for new configurations was included. However, nowhere is it stated or implied that other portions of the "Design Features" technical specifications are not required to be met, as the draft NEI letter tries to establish.

As stated in Harold Chernoff's non-concurrence, it is significant to note that Generic Letter 90-02, Supplement 1 stated that:

"The reconstitution of a fuel assembly to replace damaged and leaking fuel rods is not considered to be an unreviewed safety question if the repaired fuel assembly constitutes a previously approved design. The licensee may perform such a reconstitution under the provisions of 10 CFR 50.59 without prior approval of the NRC staff if (1) an unreviewed safety question does not exist, and (2) the reconstituted fuel does not require a change to the "Design Features" section of the TS. [emphasis added]"

The Design Features section of the technical specification included, then and now, explicit restrictions on the number of fuel assemblies, the type of cladding of all fuel assemblies, and the fuel type. Thus, this Generic

Letter clearly identified that a change to fuel cladding and/or fuel type could not be implemented under the provisions of 10 CFR 50.59 since these parameters were and are explicitly described in the "Design Features" section of the technical specifications. and that licensees would need to use the amendment process for changes to fuel assembly cladding and/or fuel type.

This entire discussion in the non-concurrence is not addressed in the non-concurrence response.