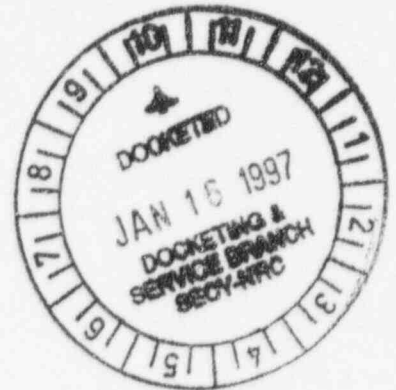


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January 11, 1997

DOCKET NUMBER
PROPOSED RULE PR MTSC
(61FR54461)



The Secretary of the Commission
U. S. Nuclear Regulatory Commission
Washington, DC 20555

Attn: Docketing and Services Branch

Subject: Policy an Procedure for Enforcement Actions; Departure From FSAR

I wish to comment on the subject policy published in the Federal Register on October 18, 1996.

The subject notice included the comment on page 54461:

"However, 10 CFR 50.59 is also used to form the basis for citations when the facility or procedures never met the description in the FSAR. These cases represent de facto changes from the FSAR. A failure of the facility to conform to the FSAR may also mean that the FSAR may contain inaccurate or incomplete information, subjecting the licensee to enforcement action for a violation of 10 CFR 50.59."

I disagree with this comment. Regulation 10 CFR 50.59 applies only to changes, tests and experiments. If the FSAR never properly described the facility or the procedures, this means that the plant configuration or procedures were fixed before the original license was issued. Prior to the license being issued, regulation 10 CFR 50.59 did not apply. If the regulation did not apply when the change was made, there can be no violation of 10 CFR 50.59.

I do not wish to imply that it is acceptable for variances to exist between the plant configuration and the FSAR — to the contrary, they need to be in agreement. However, the violation is not a violation of 10 CFR 50.59.

Please call if you have any questions or comments.

Sincerely,

Larry A. Grime, President

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