



NUCLEAR ENERGY INSTITUTE

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VICE PRESIDENT  
REGULATORY AFFAIRS

September 4, 2007

Mr. James E. Dyer  
Director  
Office of Nuclear Regulatory Regulation  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

**Subject:** NRC Proposed Regulatory Information Summary Concerning Maintenance Rule

**Project Number:** 689

Dear Mr. Dyer:

During an August 2 Commission briefing on the subject of risk-informed regulation, NRC management indicated that a regulatory information summary (RIS) was scheduled to be issued in September addressing the issue of fire risk consideration under paragraph (a)(4) of the maintenance rule, 10 CFR 50.65. We request that NRC please make this RIS available in draft for stakeholder comment.

In 1999, the NRC promulgated 10 CFR 50.65(a)(4), the requirement to assess and manage risk due to maintenance activities. Neither the rule nor its Statement of Considerations was explicit with regard to fire risk. Section 11 of NUMARC 93-01, Revision 3, provides guidance relative to paragraph (a)(4), and was endorsed by NRC Regulatory Guide 1.182 in May 2000. Many revisions of this document were shared in draft with NRC staff as the rulemaking was developed. At that time, NRC did not state that consideration of fire risk was required. This was due to limitations in fire risk analysis methods as well as the recognition that existing fire protection programs already contain compensatory measures to address increased fire risk due to work activities as well as to compensate for non-functional fire detection, suppression, and barriers.

Over the past several years, NRC has begun to cite violations against some licensee programs for the failure to consider fire risk in (a)(4) assessments. We believe this enforcement action was inappropriate and that NRC should follow established regulatory processes. This would include completing a regulatory analysis to address value and impact to justify inclusion of fire risk in (a)(4) assessments on a generic basis.

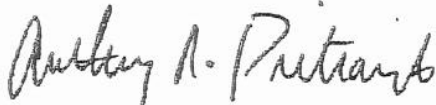
Mr. James E. Dyer  
September 4, 2007  
Page 2

In July 2006, NEI provided draft guidance on the inclusion of fire risk in configuration risk assessment to our member companies and recommended they consider this guidance, absent a regulatory requirement to do so. We further noted that when NRC completed a regulatory analysis justifying the inclusion of fire risk in (a)(4) activities, our intent would be to propose the draft guidance as a revision to Section 11 of NUMARC 93-01 for NRC endorsement.

At the August 2 Commission briefing, NRC stated that they had concluded that it was always the intention of 10 CFR 50.65(a)(4) to address fire risk and that this position would be clarified through a RIS, apparently in the absence of a formal regulatory analysis. We believe that proper regulatory process and consideration of the pertinent facts strongly support the performance of a regulatory analysis to justify this position. We therefore request issuance of the draft RIS for stakeholder comment.

Thanks for your consideration of this request and please contact me if you have any questions in this regard.

Sincerely,



Anthony R. Pietrangelo