

August 25, 2004

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary /RA/

SUBJECT: STAFF REQUIREMENTS - SECY-04-0138 - DENIAL OF A
PETITION FOR RULEMAKING TO REVISE 10 CFR PART 50
AND ASSOCIATED GUIDANCE TO SPECIFICALLY ADDRESS
THE IMPACT AND FOULING ON THE PERFORMANCE OF ALL
HEAT EXCHANGE SURFACES IN A NUCLEAR POWER PLANT

The Commission has approved denial of the petition for rulemaking and publication of the *Federal Register* notice of the denial subject to the changes noted below.
(EDO) (SECY Suspense: 9/24/04)

1. The Federal Register notice and the letter to the petitioner should be revised to reflect the revised performance goals of the Strategic Plan for fiscal years 2004-2009.

Specific comments on the *Federal Register* notice

2. On page 3, next to last paragraph, revise line 2 to read ' ... petition that the **Advisory Committee on Reactor Safeguards (ACRS)** did not address' Revise lines 5 and 6 to read ' ... five additional ~~Advisory Committee on Reactor Safeguards (ACRS)~~ subcommittee'
3. On page 5, last two sentences before the section entitled, "NRC Technical Evaluation," should respectively begin, "In the STARS group's view, ..." and "The STARS group believes..."
4. On page 7, bullet 3, line 1, delete "also."
5. On page 7, bullet 4, revise line 1 to read 'SRP 4.2 **also** describes the'
6. On page 8, revise line 1 from the top to read ' ... the NRC ~~does not believe~~s that additional regulations are **not** needed to'
7. On page 8, in the last paragraph of item 2, the comma after the parentheses should be removed.

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8. On page 8, last paragraph, revise the next to last line to read ' ... GL 89-13 and will, as it has in the past, take **appropriate** actions if adverse'
9. On page 9, 1st paragraph, revise line 1 to read ' ... must require publicly available'
10. On page 9, 2nd paragraph, revise line 1 to read ' ... NRC **believes** ~~does not agree~~ that it is **not** either necessary or useful to report'
11. On page 9, last paragraph, revise line 3 to read ' ... or (2) the **nuclear power** plant' Revise line 5 to read ' ... condition that **at the time of discovery** could have'
12. On page 10, 2nd full paragraph, revise line 1 to read ' ... NRC **believes that** ~~disagrees with the petitioner. The~~ existing' In line 9, correct the spelling of "adverse."
13. On page 11, 1st paragraph, revise line 1 to read ' ... NRC **believes that** ~~disagrees with the petitioner. Both~~ pressurized' Revise line 9 to read ' ... pin will bow **enough to contact adjacent rods and control rod tubes and interfere with coolant flow.** ~~due to axial thermal expansion. SRP~~'
14. On page 11, last paragraph, revise line 1 to read ' ... NRC **believes that** ~~disagrees with the petitioner. The~~ effects of' In the bullet, revise line 1 to read '**The NRC conducts an** license reviews include extensive NRC review of the'
15. On page 12, 1st bullet, revise line 1 to read '**Compliance** ~~inspections~~ of'
16. On page 12, last paragraph, revise line 1 to read ' ... NRC ~~does not believe~~s that these requirements **do not** need to be' In the next to last bullet, line 1, delete "All."
17. On page 13, next to last paragraph, revise lines 2 and 3 to read ' ... current regulations, and regulatory guidance **and practices already provide for monitoring, detecting and correcting possible fouling effects on heat exchanger performance.** ~~already address the effects of fouling of heat exchanger surfaces in NPPs. In addition, n~~No data' Revise lines 5 through 7 to read ' ... safety problems. Existing regulations, guidance, and practices provide for monitoring, detecting and correcting possible fouling effects on heat exchanger performance before any significant safety problems can occur. Thus, **the NRC believes** there would be **little or** no safety benefit'
18. On page 14, revise line 2 from the top to read ' ... throughout the nuclear **power** plant. The NRC does not believe that **taking such an** unnecessary and costly regulatory action to address a non-safety-significant issue would enhance public confidence in the safety of nuclear power.'
19. On page 14, 1st full paragraph, revise lines 1 and 2 to read ' ... and Effectiveness, and Realism: The proposed revisions would **not improve** ~~decrease~~ efficiency and effectiveness ; **and realism** because licensees' Revise lines 2 and 3 to read ' ... generate additional **and unnecessary** information as part' Revise line 4 to read ' ... nuclear **power** plant.' Revise lines 5 and 6 to read ' ... NRC resources ; ~~Because~~ **with little or** no **added** safety **benefit and is unnecessary.** ~~value would be added, this~~

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regulatory action would not improve NRC efficiency or effectiveness.'

20. On page 14, 2nd full paragraph, revise lines 5 and 6 to read '... would be redundant **and is unnecessary**. Licensees would incur minimal additional burden in modifying procedures but no benefit would occur.'
21. On page 14, last paragraph, delete everything after the 1st sentence (As discussed above ... by the NRC. The)
22. On page 15, delete the 4 lines at the top of the page (Standard Review Plan ... the petitioner.)
23. On page 15, 1st full paragraph, revise line 1 to read '**The** NRC oversight of ...' Revise lines 5 through 7 to read '... rulemaking is required, ~~even though no specific regulation explicitly addresses the performance of heat exchangers,~~ is based on the determination that the existing structure of regulations (i.e., **10 CFR 50.65, Appendix A and B to Part 50**), technical ...' Revise the last line to read '... designed and maintained, **in order to fulfill their intended function.**'
24. On page 15, last paragraph, revise line 1 to read 'The **Commission concludes that the** integration of ...'

Specific comments on the letter to the petitioner

25. On page 1, paragraph 5, revise line 1 to read '... and the **NRC** staff ~~did~~ could not **identify** find any data or ...'
26. On page 1, paragraph 6, revise line 1 to read '... oversight of **NPPs** ~~nuclear power plants~~ includes the' Revise line 2 to read '... specifications, and continuous' Revise line 4 to read '...in total, **these** ~~this~~ regulatory **requirements and related oversight practices** program provides confidence in the' Revise lines 4 and 5 to read '... **NRC's** ~~staff's~~ finding that no rulemaking is required, ~~even though no specific regulation explicitly addresses the performance of heat exchangers,~~ is based' Revise the last line to read '... designed and maintained, **in order to fulfill their intended function.**'

cc: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
OGC
CFO
OCA
OIG
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR

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