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DOCKETED 08/21/06

PR 1,2,10,19,20,21,25,26,
50,51,52,54,55, et. al.
(71FR12781)
Comment No. 21

MFN 06-280

August 16, 2006

Annette L. Vietti-Cook
Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

ATTENTION: Rulemakings and Adjudications Staff

SUBJECT: *Federal Register* Notice 71 Fed. Reg. 12,782 (Mar. 13, 2006), Notice of Proposed Rule for Licenses, Certifications, and Approvals for Nuclear Power Plants (RIN 3150-AG24).

Dear Ms. Vietti-Cook:

General Electric Company (GE) appreciates the opportunity to submit comments on the proposed amendments to 10 CFR Part 52 and associated regulations. GE submitted the first design certification application (the Advanced Boiling Water Reactor (ABWR)) and currently has pending before the NRC an application for design certification of the further advanced Economic Simplified Boiling Water Reactor (ESBWR). We are currently supporting prospective combined license applicants for both of these advanced designs and are participating in the NuStart consortium and the Dominion COL Demonstration Project in cooperation with the Department of Energy in support of the Nuclear Power 2010 program.[1] GE, therefore, has a

[1] The Nuclear Power 2010 program is a joint government/industry cost-shared effort to identify sites for new nuclear power plants, develop and bring to market advanced nuclear plant technologies, evaluate the business case for building new nuclear power plants, and demonstrate untested regulatory processes leading to an industry decision to seek Nuclear Regulatory Commission (NRC) approval to build and operate at least one new advanced nuclear power plant in the United States. NuStart is a consortium formed in 2004 with the objectives to: 1) demonstrate the NRC's licensing process for obtaining a combined license for an advanced nuclear power plant; and 2) complete the design engineering for the two selected reactor technologies. Dominion is a power company headquartered in Virginia.

direct stake in the outcome of this rulemaking. On this basis, while we participated in the development of and endorse the comments of the Nuclear Energy Institute,[2] we provide herein additional views regarding a limited number of issues that may affect design certification applicants or impact existing design certifications, and which we believe require attention before finalizing the amended rules.

First, we recognize that the proposed rule includes a number of provisions that are beneficial to applicants for early site permits, combined licenses, and design certifications and urge the NRC to proceed with those changes. In addition, we urge the NRC to consider amendments that would provide greater flexibility in the change processes for certified designs, while maintaining standardization.

We would like to take this opportunity to provide expanded discussion of certain proposed changes for further NRC consideration. These proposed changes would impose new reporting requirements on design certification applicants. We also have identified a change that could result in an unintended backfit being imposed on the ABWR certified design. The specific changes of concern are as follows:

Reporting Requirements:

The proposed rule would impose the requirements in 10 CFR Part 21 for reporting defects in basic components, the requirements in 10 CFR § 50.9(b) for reporting information having significant implications for safety, and the requirements in 10 CFR § 50.46 for reporting certain errors and changes in evaluation models for the emergency core cooling system. These reporting requirements have not previously been applied to design certification applicants *per* se (although they do apply directly or indirectly to reactor vendors who are contractors of licensees). The proposed requirements in Part 21, 10 CFR § 52.6(b), and 10 CFR § 50.46 would impose, for the first time, these reporting requirements directly on design certification applicants.

- We believe that applying Part 21 to design certification applicants is contrary to Section 206 of the Energy Reorganization Act, and inconsistent with past NRC practice. Nevertheless, if the NRC determines that it will impose the requirements of Part 21 on design certification applicants, then we request that the rule clarify the requirements do not apply retroactively.

- The requirements for completeness and accuracy of information set forth in 10 CFR § 50.9 are applicable to an "applicant for a license" and a "licensee," and have not, heretofore, been applied directly to a design certification applicant. The proposed amendments include new Section 52.6, which imposes upon 10 CFR Part 52 applicants, licensees, and holders essentially the requirements of Section 50.9. While we clearly recognize that our communications with and information provided to the NRC must be complete and accurate in all material respects, this proposed change would impose a new reporting requirement.

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[2] NEI submitted comments in letters dated May 16, 2006, May 25, 2006, and May 30, 2006.

- The NRC proposes to impose the reporting requirements of 10 CFR § 50.46 upon design certification applicants, both during the application process and following issuance of the design certification rule, in order that the NRC is notified of changes or errors in the design certification or standard design approvals. We believe that an obligation to notify the NRC of changes or errors should begin at the time a design certification is referenced in a license application.

Potential Backfit:

- We are concerned that a proposed change to 10 CFR § 50.55a(f)(3)(iii)(A) imposes an inappropriate backfit on the design provisions included in design certifications issued prior to November 22, 1999. Specifically, the proposed change would add a requirement for a design certification issued before November 22, 1999 to include design provisions and provide access for in-service testing of pumps and valves classified as Code Class 1 for purposes of the American Society of Mechanical Engineers (ASME) Code. This proposed section further states that the latest NRC-approved edition of the ASME Code must be used in the design.

  We believe that it was not the intent of the NRC to require retrofit of the certified design. Without the proposed change, the intent of this paragraph is to ensure that a component is designed and constructed to enable in-service testing to the ASME Code in effect at the time the construction permit is issued. However, because the ABWR was required to utilize the applicable edition of the ASME Code that was in effect and approved by the NRC at the time, the design access provisions for in-service testing are already established. We recommend that this change be eliminated or, at a minimum, that application to design certifications be removed from the proposed amendment.

While we are concerned with extent of changes in the proposed rule, and have identified a number of other proposed amendments that could create confusion or, at a minimum, may warrant further guidance and interactions with the NRC to clarify the intent of the requirements, we believe that these have already been identified in sufficient detail in other comments. We do request, however, that the NRC carefully consider whether certain of the proposed amendments more appropriately represent NRC regulatory guidance versus requirements. That the NRC has issued four design certifications and shortly should issue three early site permits suggest that the existing rules and guidance provide a workable framework.

In closing, we are committed to working with the NRC in implementing the rules, achieving goals for standardization, and supporting increased efficiencies in the processes (*e.g.,* design-centered approach for combined license applications). We recognize that most of the proposed amendments are intended to clarify the application of existing requirements to the 10 CFR Part 52 processes. The rulemaking may, however, result in modifications to and adjustments in current practices. On this basis, and with the proposed schedules for new plant activities, we respectfully request that the Commission expedite its review of the final rulemaking in order to minimize schedule impacts and potential delays that may result from adjustments in implementing the regulations.

Please contact me at 910-675-5242 if you have any questions regarding the information discussed herein.

Sincerely,

R. E. Brown

Robert E. Brown
General Manager
Regulatory Affairs

Cc: D. Matthews, NRC
A. Heymer, NEI

From: Carol Gallagher
To: Evangeline Ngbea
Date: 08/17/2006 12:07:56 PM
Subject: Comment letter on Licenses, Certifications and Approvals for Nuclear Power Plants Proposed Rule

Van,

Attached for docketing is a comment letter on the above noted proposed rule from Robert E. Brown, General Electric, that I received via the rulemaking website on 8/16/06.

Carol

Mail Envelope Properties (44E49455.AB6 : 5 : 35764)

Subject: Comment letter on Licenses, Certifications and Approvals for Nuclear Power Plants Proposed Rule
Creation Date 08/17/2006 12:07:49 PM
From: Carol Gallagher

Created By: CAG@nrc.gov

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