



NUCLEAR ENERGY INSTITUTE

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Dr. William D. Beckner
Deputy Director
Division of New Reactor Licensing
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

PROJECT NUMBER: 689

Dear Dr. Beckner:

The industry and the NRC staff have had substantial interactions on implementing the combined license subpart of 10 CFR Part 52 in five workshops on DG-1145, *Draft Guideline for Combined License Applications for Nuclear Power Plants (LWR Edition)*. I am writing to you to highlight two related and recurring issues that are fundamental to the COL applications and associated guidance currently being developed. The first concerns the level of additional information necessary to be included in a COL application that references a design certification. The second issue concerns the distinction between COL licensing reviews and design implementation inspections.

It is clear from the workshop discussions that we need to ensure that a common understanding of these issues exists so that it can be reflected in guidance for COL applicants and NRC reviewers. We request that a portion of the August workshop on DG-1145 be used to continue discussion in this regard. The two issues are discussed below.

1. The level of additional information necessary to be included in a COL application that references a design certification

In the NRC workshop on June 14, 2006, the staff clarified that if a certified design is referenced, a COL application must demonstrate that interface requirements are met, address COL action items and identify departures from the design certification, but need not contain additional detail about the approved standard design. This is an important policy affirmation for both NRC reviewers and COL applicants. This clarification reflects the central Part 52 principle of design certification finality, as clearly stated in Section VI of each of the design certification rules.

Based on experience in the DG-1145 interactions, this principle needs to be clearly stated in guidance to applicants as well as NRC reviewers, including DG-1145 and the updated Standard Review Plan.

2. Distinction between COL Licensing Reviews and Design Implementation Inspections

During the June 14 workshop discussions, the NRC staff indicated that results of design implementation inspections would be considered in the licensing decision to issue the COL. The industry disagrees because this would be contrary to the principle of design certification finality (discussed above) which provides that the COL applicant need not provide additional information about the approved standard design. Rather, we have long understood that design implementation would be inspected as part of the NRC's Construction Inspection Program (CIP) to confirm that the approved standard design has been properly translated into more detailed design, procurement and construction documents.

Detailed design engineering beyond that included in a certified design, commonly referred to first-of-a-kind engineering (FOAKE), may be completed prior to or after COL issuance. Construction Inspection Program (CIP) inspections of FOAKE, regardless of whether they occur before or after the COL is issued, are separate and distinct from the safety and environmental reviews of information contained in the COL application. The current set of prospective COL applicants will complete part of FOAKE prior to COL issuance. This means that the NRC will likely perform inspections of design implementation prior to COL issuance. These inspections would be part of the Construction Inspection Program, not part of the licensing review leading to issuance of the COL. These engineering inspections should be considered solely in the construction inspection context.

Deficiencies in the translation of design certification requirements into detailed procurement and construction information identified as result of such inspections will be addressed as part of the applicant/licensee's Corrective Action Program. Consistent with well established processes, the NRC will inspect the Corrective Action Program, and, as necessary, perform follow-up inspections to assure that findings are resolved. Design implementation deficiencies should be considered a construction-related issue and corrected prior to fuel load. In this regard, we agree that an unresolved deficiency in design implementation could be material to ITAAC, and it may be necessary to resolve the deficiency in order to complete an ITAAC.

NRC regulations do not require detailed design engineering associated with a certified design to be completed as part of the process for issuing a COL. The scope of FOAKE and the extent to which such information is developed prior to COL issuance is a business decision. For example, as the NRC staff has acknowledged, all or part of Design Acceptance Criteria (DAC) implementation, which is part of

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FOAKE, may be completed following COL issuance. Design implementation inspections should be performed when the COL applicant or licensee has completed sufficient FOAKE to warrant meaningful inspection. The applicant or licensee would inform the NRC staff regarding when FOAKE will be ready for inspection verification as part of interactions with the NRC staff concerning construction and inspection schedules.

DG-1145, the updated SRP and new Inspection Manual Chapter 2502, *Pre-COL Phase Inspections*, should all consistently reflect the principle of design certification finality and the distinction between licensing review of COL applications and NRC inspections of design implementation, as discussed above. In particular, IMC-2502 should be revised to reflect that the results of design implementation inspections are not part of the licensing decision for COL and will be documented under the CIP, not in the Safety Evaluation Report for COL. SERs for COL should document the results of the staff's review of COL applications, not how design requirements of the license are implemented.

More discussion on the topic of the regulatory process associated with FOAKE is needed to ensure coherence between NRC regulations and NRC guidance and to preserve the important distinction between licensing issues and inspection issues. We recommend this be a topic of follow-up discussion at the August DG-1145 workshop.

We share the NRC objective to develop effective guidance that is clear about the information necessary in a COL application to support NRC review and issuance of a COL, minimizes the need for NRC to request additional information (RAI) and is consistent with the principles of 10 CFR Part 52. We will continue to work with the NRC staff in the constructive and interactive DG-1145 workshops to ensure that practical guidance is available for COL applicants and NRC inspectors and reviewers. If you have any questions on this letter, please contact me at (202) 739-8087; rjb@nei.org.

Sincerely,



Russ Bell

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