

DOCKET NUMBER
PROPOSED RULE PR 52
(66FR49324)

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Westinghouse
Electric Company

OFFICE OF THE SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF



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Nuclear Services
Washington Operations
12300 Twinbrook Parkway, Suite 330
Rockville, MD 20852

November 13, 2001

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

Attention: Rulemakings and Adjudications Staff, Mail Stop O-16C1

Subject: Comments on Draft Rule Language for Part 52

- References:
1. *Federal Register* Notice 66 FR 49324, September 27, 2001, Early Site Permits; Standard Design Certifications; and Combined Licenses for Nuclear Power Plants
 2. ABB-CE letter LD-97-020, dated June 13, 1997, C. Brinkman to NRC
 3. Westinghouse letter dated November 8, 2001, C. Brinkman to A. Vietti-Cook

Dear Ms. Vietti-Cook,

Westinghouse Electric Company is responding to the *Federal Register* notice (Reference 1) that requests comment on draft rule wording for a proposed Part 52 rulemaking. As a vested stakeholder in the Part 52 process, Westinghouse appreciates the opportunity to provide input to the NRC during the drafting process for this rulemaking.

Westinghouse has participated in the development of comments by the Nuclear Energy Institute Part 52 Task Force on this draft language. Westinghouse, therefore, endorses the NEI comment letter that is being submitted concurrently.

In addition, Westinghouse requests that the NRC utilize this rulemaking to disposition the comments that were provided on Part 52, Appendix B in Reference 2. Reference 2 was sent to the NRC immediately after the System 80+ certification was published as Appendix B in 1997. It contains errata and proposed clarifications. At the time of receipt of Reference 2, the NRC staff informed ABB-CE (now Westinghouse Electric Company) that the comments would be dispositioned during the envisioned Part 52 "Lessons Learned" rulemaking. To our knowledge, no prior disposition has been made. Reference 2 is attached for your convenience.

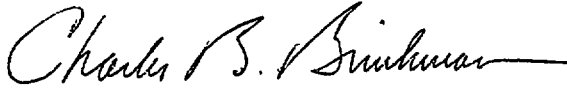
Westinghouse reiterates its request made in Reference 3 that, to the extent practically achievable, the Part 52 rulemaking incorporate the NEI petitions for rulemaking that were noticed in the *Federal Register* (66 FR 48832, September 24, 2001, Docket Number PRM-52-1 and 66 FR 48828, September 24, 2001, Docket Number PRM-52-2). Because of the strong potential for imminent design certification and early site permit applications, we also urge the Commission to not further delay the overall Part 52 rulemaking.

Template = SECY-067

SECY-02

If you have any questions or wish further discussion on this topic, please contact me at 301-881-7040.

Sincerely,

A handwritten signature in cursive script that reads "Charles B. Brinkman". The signature is written in black ink and includes a long horizontal flourish at the end.

Charles B. Brinkman
Director
Washington Operations

cc: J. Lyons, NRC
R. Simard, NEI
R. Matzie, W
E. Kennedy, W
E. Cummins, W
H. Sepp, W
L. Campagna, W
B. Cowan, ESC&M



June 13, 1997

LD-97-020

Docket No. 52-002

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555-0001

Subject: System 80+™ Design Certification Rule Errata

Attachment: Memorandum from J. Egan & J. Lawrence to C. Brinkman, dated 5/21/97

Dear Sirs:

On May 21, 1997, the NRC published the Final Rule for the Standard Design Certification for the System 80+ Standard Plant design in the Federal Register (62 FR 27840). The applicant for the certification of the System 80+ Standard Plant design was Combustion Engineering, Inc.

We have reviewed the rule and have identified errata. Attached is a memorandum from Egan and Associates to C. Brinkman which lists the errata, the basis for correction and the suggested corrections.

We hereby request that these errata be corrected in an errata amendment to the System 80+ design certification rule.

If you have any questions, please contact me at 301-881-7040.

Sincerely yours,

COMBUSTION ENGINEERING, INC.

Charles B. Brinkman
Director, Nuclear Licensing

xc: J. N. Wilson (NRC)
G. S. Mizuno (NRC)
J. Egan (E&A)

ABB Combustion Engineering Nuclear Systems

MEMORANDUM

TO: Charlie Brinkman

FROM: Joseph R. Egan
John W. Lawrence *JWL*

DATE: May 21, 1997

RE: Errata for the ABB-CE System 80+ Design Certification Rule

Upon review of NRC's design certification rule for the ABB-CE System 80+, published today at 62 Fed. Reg. 27840-70 (attached), we have identified the following errata for your consideration. Where appropriate we have reprinted the entire sentence in need of correction with any additions noted by use of red-lined text and any deletions noted by use of strike-out text.

| <u>FR Pg</u> | <u>Section</u> | <u>Errata and Basis</u> |
|--------------|----------------|--|
| 27840 | col. 3 | "In accordance with the Administrative Procedure Act of 1947 <u>1946</u> (APA), as amended," Basis: To correct a typographical error. |
| 27845-6 | col. 3 | "The Commission agrees that departures from Tier 2 information that describe the resolution of severe accident issues should use criteria that <u>is are</u> different from the criteria in 10 CFR for determining if a departure constitutes an unreviewed safety question (USQ)." Basis: To correct a grammatical error. |
| 27854 | col. 3 | "Thus, the plant-specific DCD would function akin to an updated Final Safety Analysis Report, in the <u>since sense</u> that it would provide the most complete and accurate information on a plant's licensing basis for that part of the plant within the scope of this appendix." Basis: To correct a grammatical error. |

| <u>FR Pg</u> | <u>Section</u> | <u>Errata and Basis</u> |
|--------------|----------------|---|
| 27867 | V.B.6 | <p>Include an exemption from 10 C.F.R. Part 100 for the operating basis earthquake (OBE).</p> <p>Basis: To account for the fact that the new siting rule (10 C.F.R. § 50.34(a)(1), see 61 Fed. Reg. 65157) is not applicable to the System 80+ since the design certification application was filed before the rule's effective date.</p> |
| 27868 | VI.B.4 | <p>"All exemptions from the DCD pursuant to and in compliance with the change processes in Sections VIII.A.4 and VII.B.5 of this appendix, but only for that proceeding plant."</p> <p>Basis: For clarity.</p> |
| 27868 | VI.B.5 | <p>"All departures from the DCD that are approved by license amendment, but only for that proceeding plant."</p> <p>Basis: For clarity.</p> |
| 27869 | VIII.B.5.f | <p>"The Commission may admit such a contention if it determines the petition raises a genuine issue of material fact regarding compliance with VIII.B.5 of this appendix."</p> <p>Basis: To maintain consistency with the provision in 10 C.F.R. § 2.749(d).</p> |
| 27869 | VIII.B.6.a | <p>"Except as provided by Section VI.B.5 of this appendix, the departure will not be considered a resolved issue, within the meaning of Section VI of this appendix and 10 CFR 52.63(a)(4)."</p> <p>Basis: To maintain consistency between Sections VIII.B.6.a and VI.B.5, and to properly reflect when Tier 2* changes may be accorded finality.</p> |

Charlie Brinkman
May 21, 1997
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| <u>FR Pg</u> | <u>Section</u> | <u>Errata and Basis</u> |
|--------------|----------------|--|
| 27869 | VIII.C.3 | <p>"The Commission may require plant-specific departures on generic technical specifications and other operational requirements that were completely reviewed and approved, provided a change to a design feature in the generic DCD is not required and special circumstances as defined in 10 CFR 2.758(b) are present or the requirements of 10 CFR 50.109 are met."</p> <p>Basis: To maintain consistency between Sections VIII.C.1, VIII.C.3, and VIII.C.5, and because 10 C.F.R. § 2.758 is only applicable to hearings and not to NRC staff reviews.</p> |
| 27869 | VIII.C.4 | <p>"An applicant who references this appendix may request an exemption from the generic technical specifications or other operational requirements. A departure from an operational requirement that does not involve an unreviewed safety question does not require an exemption from this appendix. The Commission may grant such a request"</p> <p>Basis: To maintain consistency between Sections VIII.C.4 and VII.B.5.e.</p> |
| 27869 | VIII.C.5 | <p>"Such petition must comply with the general requirements of 10 CFR 2.714(b)(2) and must demonstrate why special circumstances as defined in 10 CFR 2.758(b) are present, or for compliance with the Commission's regulations in effect at the time this appendix was approved, as set forth in Section V of this appendix, including the requirements of 10 CFR 50.109."</p> <p>Basis: To maintain consistency between Sections VIII.C.1, VIII.C.3, and VIII.C.5, and because 10 C.F.R. § 2.758 is only applicable to hearings and not to NRC staff reviews.</p> |

Attachment