

June 12, 2008

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
ENTERGY NUCLEAR VERMONT YANKEE, LLC)	Docket No. 50-271-LR
AND ENTERGY NUCLEAR OPERATIONS, INC.)	
)	ASLBP No. 06-849-03-LR
(Vermont Yankee Nuclear Power Station))	

NRC STAFF'S MOTION IN LIMINE TO STRIKE
TESTIMONY AND EXHIBITS FILED BY NEW ENGLAND COALITION, INC.

Pursuant to 10 C.F.R. § 2.323 and the Atomic Safety and Licensing Board's ("Board") Initial Scheduling Order (Nov. 17, 2006) (unpublished) ("November Order"), the staff of the U.S. Nuclear Regulatory Commission ("Staff") hereby submits this motion to exclude portions of New England Coalition, Inc.'s ("NEC") Statement of Position, Direct Testimony and Exhibits (Apr. 28, 2008) and Rebuttal Statement of Position, Testimony and Exhibits (June 2, 2008). For the reasons set forth below, the Staff requests that the Board exclude from the evidentiary record or otherwise not consider or give weight to portions of NEC's direct and rebuttal testimonies and exhibits.

BACKGROUND

On January 25, 2006, Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. ("Entergy") filed an application to renew its operating license for the Vermont Yankee Nuclear Power Station ("Vermont Yankee"). On May 26, 2006 NEC filed a Petition for Leave to Intervene, Request for Hearing, and Contentions. The Board granted NEC's intervention petition and admitted contentions concerning metal fatigue ("NEC Contentions 2A and 2B"); the steam dryer monitoring program ("NEC Contention 3"), and flow-accelerated corrosion ("FAC") ("NEC Contention 4") on September 22, 2006. *See Entergy Nuclear Vermont*

Yankee, LLC, & Entergy Nuclear Operations, Inc. (Vermont Yankee Nuclear Power Station), LBP-06-20, 64 NRC 131, 183-196 (2006).

Pursuant to the Board's November Order, NEC filed its Initial Statement of Position and Testimony on April 28, 2008. On May 13, 2008 the Staff and Entergy filed their initial statement of positions, testimonies, and exhibits. Subsequently, on June 2, the Staff, Entergy and NEC filed rebuttal testimonies and exhibits.¹

In accordance with 10 C.F.R. § 2.323(b) the Staff contacted counsel for the other parties on June 11, 2008 in regards to the filing of this motion. Vermont Department of Public Service stated it does not object, but will review the motion when it is filed; Entergy stated it does not object but reserves the right to respond as appropriate; and NEC stated it will review the motion in writing and then respond. The State of New Hampshire and the Commonwealth of Massachusetts have not stated a position.

DISCUSSION

I. Scope of the Proceeding and Admissible Evidence

The Staff has previously briefed the limited scope and litigable issues in this proceeding. See NRC Staff Initial Statement of Position on NEC Contentions 2A, 2B, 3, and 4 ("Staff Statement of Position") (May 13, 2008) at 8-13. In short, the scope of license renewal proceedings focuses on the "potential detrimental effects of aging that are not routinely addressed by ongoing regulatory oversight programs." *Florida Power & Light Co.* (Turkey Point Nuclear Generating Plant, Units 3 & 4), CLI-01-17, 54 NRC 3, 7 (2001). Issues involving a

¹ NEC's June 2, 2008 filing only included the rebuttal testimonies of Dr. Hausler and Dr. Hopenfeld. On June 4, NEC informed the Staff that Mr. Witte was unable to file his rebuttal testimony on June 2 due to an illness. The Staff received Mr. Witte's rebuttal testimony via US Mail on June 11, 2008. In accordance with the Board's Order Granting the Motion to Extend Time to File Motions in Limine with Regard to Ulrich Witte's Testimony (June 11, 2008) (unpublished), the Staff's position regarding the admissibility of Mr. Witte's rebuttal testimony is not included herein.

facility's compliance with its current licensing basis ("CLB") are outside the scope of license renewal. *Id.* at 9; Nuclear Power Plant License Renewal; Final Rule, 56 Fed. Reg. 64,943, 64,951 (Dec. 13, 1991) ("The Commission has determined that a finding of compliance of a plant with its current licensing basis is not required for issuance of a renewed license").² Specifically, the limited and specific issues before this Board are the adequacy of Vermont Yankee's 1) fatigue monitoring program; 2) steam dryer monitoring program; and 3) flow-accelerated corrosion program. Staff Statement of Position at 9.

As stated in the Staff's Statement of Position, Entergy has the overall burden to demonstrate the adequacy of its aging management programs ("AMP"), *see id.* at 9 (citing 10 C.F.R. § 2.325), and NEC must present evidence that these programs and/or reanalysis are inadequate, *id.* (citing *Louisiana Power & Light Co. (Waterford Steam Electric Station, Unit 3)*, ALAB-732, 17 NRC 1076, 1093 (1983)). The Staff must determine, in accordance with 10 C.F.R. § 54.21(a)(3), whether Entergy has demonstrated that aging effects will be adequately managed so that intended functions will be maintained consistent with the CLB for the period of extended operation. *Id.* at 10.

Evidence that may be admitted in this license renewal proceeding must be relevant, material, reliable and not unduly repetitious. 10 C.F.R. § 2.337(a). Irrelevant or immaterial portions of an admissible document should be excluded to the extent practicable. *Id.* Furthermore, any portion of written presentations or responses to written questions may, by motion or *sua sponte*, be stricken by the Board if it "is irrelevant, immaterial, unreliable,

² The Commission reaffirmed this determination when it revised Part 54. *See* Nuclear Power Plant License Renewal Revisions, Final Rule, 60 Fed. Reg. 22,461, 22,473-474 (May 8, 1995) (citing the 1991 rule and stating that the "Commission does not contend that all reactors are in full compliance with their respective CLBs on a continuous basis. Rather . . . the regulatory process provides reasonable assurance that there is compliance with the CLB.").

duplicative, or cumulative.” 10 C.F.R. § 2.319(d). Finally, a board’s decision should only rely on information that is included in the record. See *Pacific Gas & Electric Co.* (Diablo Canyon Nuclear Power Plant, Units 1 & 2), ALAB-580, 11 NRC 227, 230 (1980) (stating that “it is a statutory requirement that the adjudicatory decisions of this Commission stand or fall on the basis of the record on which they rest”).³ Thus, unsupported statements and conclusions should be excluded or afforded no weight because they are not helpful to the trier of fact.

Similarly, an expert’s opinion may be excluded if the witness is not properly qualified as an expert or the opinion would not assist the trier of fact in understanding the evidence.

Louisiana Power and Light Co. (Waterford Steam Electric Station, Unit 3), ALAB-732, 17 NRC 1076, 1091 (1983) (internal citations omitted). Expert opinions that are based on “subjective belief or unsupported speculation” should not be admitted as evidence. *Duke Cogema Stone & Webster* (Savannah River Mixed Oxide Fuel Fabrication Facility), LBP-05-04, 61 NRC 71, 80, 99 (2005) (quoting *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 US 579, 589-90 (1993)).

II. Testimony and Exhibits to be Excluded

As identified below, a number of statements made by NEC’s witnesses exceed the scope of the proceeding, are unsupported, speculative, irrelevant, unreliable, and/or are based on subjective belief, and therefore warrant exclusion or should not be afforded weight by the Board.

³ In *Diablo Canyon*, the Atomic Safety and Licensing Appeal Board vacated the licensing board’s decision because it was not supported by evidence in the record. ALAB-580, 11 NRC at 230-31 (1980).

A. Testimony and Exhibits of Mr. Ulrich Witte

Large portions of Mr. Witte's written report and direct testimony warrant exclusion based on the fact that many of his statements are unsupported by facts or evidence. First, throughout his written analysis, Exhibit NEC-UH_03, and testimony, Exhibit NEC-UH_01, there are unsupported assumptions, suggestions, and conclusions. In his testimony, Mr. Witte states that Entergy "*apparently* failed to update CHECWORKS" and this "lapse *may have* significantly weakened the trending and predictive capability of the software," Entergy "*apparently* used an outdated version of the CHECWORKS software," and it "*appears*" that there was a pipe rupture in 2006. Exhibit NEC-UW_01 at 4, 5 (emphasis added). However, Mr. Witte neither provides facts nor points to a single exhibit to support these assertions. Absent such support, his statements are merely unsupported speculation, are unreliable and therefore warrant exclusion.

Mr. Witte's written analysis also suffers from these deficiencies. For example, Mr. Witte fails to provide supporting facts or exhibits to support the following statements in his written analysis: "deficiencies *appear* to be substantive and without question warrant condition reports under the Entergy Corrective Action Program, in particular given that they *appear* to violate regulatory commitments regarding the Flow Accelerated Corrosion Program" (Exhibit NEC-UW_03 at 3) (emphasis added); "[p]romises to correct the deficient program at some point in the future are not sufficient, unless all reasonable alternative methods for remediation are exhausted and the condition is shown to be safe in the interim" (*id.* at 3); "[t]he predictive capability of CHECWORKS was virtually non-existent for the period from 1999 forward" (*id.* at 6); "Entergy *apparently ignored* [EPRI's] warning" that the CHECWORKS model had not been fully updated (*id.* at 15 ¶5) (emphasis added). Again, absent factual support or other basis, Mr. Witte's statements are unsupported, unreliable, and do not assist the trier of fact, and therefore should not be admitted as evidence.

Furthermore, even where Mr. Witte points to evidence to support his assertions, there

are instances where the exhibit he identifies does not actually provide support. For example, Mr. Witte cites to Exhibit NEC-UW_14 to support the statement that the 2005 fueling outage only covered 63 FAC inspection data points. See exhibit NEC-UW_03 at 20 & n.50. The cited exhibit is, however, an email from Beth Siemel to Jonathan Rowley and nowhere does it discuss the number of points covered. See Exhibit NEC-UW_14.⁴

Thus, in sum, absent facts or exhibits to support his analysis and conclusions, Mr. Witte's written report and testimony can only be of marginal use, if any, to the trier of fact. These deficiencies undercut the credibility of his analysis and render his statements and conclusions unreliable. Therefore, the above statements warrant exclusion or should not be afforded weight by the Board.⁵

Second, Mr. Witte's testimony regarding Entergy's "commitments" also warrants exclusion. Mr. Witte states that Entergy has violated its "commitment to increase inspection data points by fifty percent (50%)," Exhibits NEC-UW_01 at 5; NEC-UW_03 at 20 ¶¶17, and identifies a number of "commitments" made by Entergy. See exhibit NEC-UW_03 at 11.

However, first and foremost, Mr. Witte, *again*, does not point to any exhibits, evidence or facts to

⁴ The Staff found, in a number of instances, that the exhibit Mr. Witte cites to does not support his proposition. See, e.g., Exhibit NEC-UW_03 at 15 n.26 & n.28, 17 n.36, 18 n.39, 19 n.42 & 43, 21 n.52 (the referenced pages do not exist in the cited exhibits).

⁵ Similarly, the Staff notes that Dr. Hausler did not provide as exhibits most of the documents he referenced in his expert report. These references appear to be textbooks and papers, including books and papers authored/co-authored by Dr. Hausler. However, absent evidentiary support, Dr. Hausler's statements, like Mr. Witte's, are unreliable, speculative and can provide little assistance to the trier of fact. In fact, in the Oyster Creek License Renewal Proceeding, Chief Judge Hawkens stated "[t]o the extent a party refers to something without putting it into the record, the Board is not going to search for it and the Board may or may not give an [sic] credence to a representation which it cannot verify. Therefore, if a party believes that something it relies upon is material to the argument and material to the decision making process, it's important for that party to ensure that it's submitted as an exhibit as part of the record." Transcript of Pre-hearing Conference, *Amergen Energy Co., LLC* (Oyster Creek Generating Station), Docket No. 50-0219-LR (Sept. 5, 2007) (ADAMS Accession No. ML072500383).

support his assertion that the items he identifies are actually “commitments” made by Entergy. See *id.* at 11, 20; exhibit NEC-UW_01 at 5. By definition, a commitment is made by a licensee “in docketed licensing correspondence such as licensee responses to NRC bulletins, generic letters, and enforcement actions, as well as licensee commitments documented in NRC safety evaluations or licensee event reports.” 10 C.F.R. § 54.3; see also SECY-00-0045, *Acceptance of NEI 99-04, Guidelines for Managing NRC Commitments* (Feb. 22, 2000). Thus, documentation should exist for all commitments, yet Mr. Witte has failed to provide any documentation to support his identification and discussion of commitments. Second, a number of the items Mr. Witte has identified as commitments cannot, by definition, actually be commitments. For example, items *i and v* in Mr. Witte’s list are generic letters authored by the NRC. See NEC-UW_03 at 11.⁶ By definition, commitments are licensee *responses* to generic letters. See 10 C.F.R. § 54.3. Clearly, Mr. Witte’s identification of commitments is flawed. Therefore, for the foregoing reasons, Mr. Witte’s statements regarding commitments are incorrect, unreliable and should be stricken.

Next, a number of Mr. Witte’s statements should be excluded because they are outside the scope of license renewal reviews. The Commission has explicitly stated that *current* CLB compliance is irrelevant in license renewal reviews. See Nuclear Plant License Renewal, 56 Fed. Reg. 64,943, 64,950-51 (Dec. 13, 1991). Second, “the NRC does not presume that a licensee will violate agency regulations wherever the opportunity arises.” *Private Fuel Storage, L.L.C.* (Independent Spent Fuel Storage Installation), CLI-01-09, 53 NRC 232, 235 (2001) (citing *GPU Nuclear Inc.* (Oyster Creek Nuclear Generating Station), CLI-00-06, 51 NRC 193, 207

⁶ The Staff notes that item ii on Mr. Witte’s list of commitments, “Vermont Yankee Letter to USNRC,” cannot be identified absent additional information. See Exhibit NEC-UW_03 at 11.

(2000)). Contrary to clear Commission guidance, Mr. Witte, in a number of instances, goes beyond the permissible scope of license renewal reviews and discusses Entergy's compliance with its *current* CLB. First, in his written report, Mr. Witte concludes that Entergy's "FAC program appears to have been in non-compliance with its licensing basis from about 1999 through February 2008." Exhibit NEC-UW_03 at 4; see also Exhibit NEC-UW_03 at 15-16, ¶15 ("Entergy continued to be in non-compliance with its licensing basis through the years 1999-2006"). Second, Mr. Witte states that Vermont Yankee "only partially implemented its licensing basis requirements to achieve a successful FAC program and that Entergy was aware of the problematic state of the program for many years." Exhibit NEC-UW_03 at 15, ¶4. Third, Mr. Witte states that Entergy's assertion that CHECWORKS does not need to be updated indicates that Vermont Yankee's "FAC program was prima facie in noncompliance with its CLB." Exhibit NEC-UW_03 at 19, ¶12. Fourth, Mr. Witte suggests that "[t]he record of historical regulatory compliant [sic] program indicates" that Entergy's present program is not sufficient for achieving compliance in *current* operations and maintenance of future operations and that "the *current* VYNPS FAC program does not appropriately implement industry guidance, and does not constitute an adequate aging management plan with respect to FAC." Exhibit NEC-UW_01 at A7 (emphasis added). Clearly, in statements one through four, Mr. Witte raises issues regarding Entergy's past and present CLB compliance which is outside the scope of license renewal. Furthermore, the above statements are not supported by facts or exhibits –either a reference is not provided (statements one, three and four) or the references appear to be incorrect (statement two). Therefore, the above statements warrant exclusion.

Similarly, Mr. Witte's analysis goes beyond the scope of litigable issues in this proceeding. His statement regarding the "fidelity of the entire license renewal application . . ." is not within the scope of the admitted contentions. Exhibit NEC-UW_03 at 3. Mr. Witte is expressing a general opinion about "Entergy's commitments for license renewal, management

oversight, and the efficacy of the regulatory-required Corrective Action Program.” *Id.* This statement does not address any of the admitted contentions, and therefore should be excluded from the record.

B. Testimony of Dr. Joram Hopfenfeld

A number of Dr. Hopfenfeld’s statements also warrant exclusion. Dr. Hopfenfeld suggests that NRC Staff witness John R. Fair “blatant[ly] distort[ed]” information regarding ANL equations and Fen values to the ACRS. Exhibit NEC-JH_63 at A6. Dr. Hopfenfeld’s statement is unsupported and subjective. In actuality, Mr. Fair simply stated that the new criteria changes the basis for deriving curves and will *generally* result in lower Fen factors. See Exhibit NEC-JH_28 at 96-97 (emphasis added). Thus, Dr. Hopfenfeld’s statements are misleading. Furthermore, Mr. Fair’s testimony is included in the record and his statements speak for themselves; there is no basis for such commentary by Dr. Hopfenfeld.

In addition, Dr. Hopfenfeld asserts that the ASME Code requires that the owner account for certain conditions when the environment is more aggressive than air. Exhibit NEC-JH_63 at A5, p.3. However, the Appendix Dr. Hopfenfeld relies on for his assertion, Appendix B at B-2131 (*see id.*), only provides non-mandatory *guidance*, not requirements. See Staff Exhibit D (ASME Boiler & Pressure Vessel Code, Section III, Subsection NCA, xxviii) (stating “Non-mandatory Appendices . . . are designated by a capital letter followed by Arabic numerals”). Thus, Dr. Hopfenfeld’s statement should be excluded because it is misleading, incorrect, and will not assist the trier of fact.

Dr. Hopfenfeld also asserts that 10 C.F.R. § 54.21(c) “requires a demonstration that components will operate safely in the reactor environment.” Exhibit NEC-JH_63 at A5, p.6. This is not, however, what 10 C.F.R. § 54.21(c) requires. To the contrary, this section requires that an applicant provide an evaluation of time-limited aging analyses. See 10 C.F.R. § 54.21(c). An application must provide 1) a list of time-limited aging analyses demonstrating

that for the period of extended operation, the analyses remain valid, the analysis have been projected to the end of the period, or the effects of aging will be adequately managed; and 2) a list of plant-specific exemptions that are based on time-limited aging analyses and an evaluation that justifies the continuation of these exemptions. 10 C.F.R. § 54.21(c)(1), (2). Thus, Dr. Hopenfeld's statement regarding his interpretation of the regulation is incorrect on its face, is unreliable and will not assist the trier of fact, and therefore should be excluded. Moreover, Dr. Hopenfeld's interpretation of NRC regulations is beyond the scope of his qualifications. See 10 C.F.R. § 1.23(c) (Rather, the Office of the General Counsel has the authority to provide official interpretations of NRC regulations); see also *infra* part III (discussing witness qualifications).

Finally, Dr. Hopenfeld asserts that Entergy has failed to disclose all necessary information. Exhibits NEC-JH_63 at A19; NEC-JH_01 at A8. Dr. Hopenfeld speculates that "Entergy's strategy in this and other proceedings has been to withhold the information necessary to support a thorough assessment of its analysis by intervenors" and that the "Staff has apparently acquiesced in Entergy's effort to avoid public scrutiny" Exhibit NEC-JH_63 at A19. Dr. Hopenfeld's statements are argumentative and speculative.⁷ If NEC had knowledge that Entergy had not satisfied its 10 C.F.R. § 2.336 obligations, then a motion to compel is an appropriate avenue for obtaining such information. Such speculative and unsupported accusations, at this point, are irrelevant.

⁷ Similarly, Mr. Witte claims that a number of documents, such as the RFO 26 results, were not disclosed to NEC. See Exhibits NEC-UW_03 at 8; NEC-UW_01 at A7. p.4 (asserting Entergy did not produce a condition report, or at least did not produce it to NEC); NEC-UW_03 at 5 (stating "the condition report was apparently never produced to NEC"). Furthermore, Mr. Witte's statements regarding the way in which certain documents were provided to NEC are also irrelevant, serving no purpose at this time in the proceeding. Exhibit NEC-UW_03 at 13 n.23. Thus, these statements warrant exclusion.

III. Witness Qualifications

An expert witness' qualifications are based on their "knowledge, skill, experience, training, or education." *Savannah River Mixed Fuel Fabrication Facility*, LBP-05-04, 61 NRC at 80 (internal citation omitted). If a witness lacks knowledge or expertise, his or her testimony should be stricken. See, e.g., *Georgia Institute of Technology* (Georgia Tech Research Reactor Atlanta, Georgia), LBP-96-10, 43 NRC 231, 232-33 (1996). Furthermore, where there is a challenge to an expert witness' qualifications, the party offering the witness has the burden of showing their witness is qualified as an expert. *Private Fuel Storage, LLC* (Independent Spent Fuel Storage Installation), LBP-05-22, 62 NRC 328, 356 (2003) (citing *Pacific Gas and Electric Co.* (Diablo Canyon Nuclear Power Plant, Units 1 & 2), ALAB-410, 5 NRC 1398, 1405 (1977)).

NEC relies on the statements of Dr. Hausler to support NEC Contention 4. Dr. Hausler's experience includes work in corrosion prevention, chemical inhibitors, and material selection in the oil and gas field. See Exhibits NEC-RH_02; NEC-RH_01 at 1-2. However, NEC has not provided any information to indicate that Dr. Hausler has actual experience using CHECWORKS. See Exhibits NEC-RH_02; NEC-RH_01 at 1-2. Thus, Dr. Hausler's lack of expertise casts doubt on the accuracy and reliability of his testimony regarding CHECWORKS.

Similarly, NEC has not shown that Dr. Hopenfeld is qualified to testify on matters regarding NEC Contentions 2A and 2B. Dr. Hopenfeld's experience lies in the areas of material/environment interaction and related instrumentation. See Exhibit NEC-JH_63 at 2. While there are a few statements regarding fatigue experience in Dr. Hopenfeld's rebuttal testimony, see Exhibit NEC-JH_63 at A4, there is little indication of such experience in his curriculum vitae, see Exhibit NEC-JH_02. The qualifications that NEC has provided for Dr. Hopenfeld lack specificity.

The Staff understands that the Board will accord the proper weight to the testimony of NEC's witnesses. Nevertheless, the Staff submits that NEC's witnesses are not qualified in

these areas and their testimony is not helpful to the trier of fact and therefore should be excluded.

CONCLUSION

For the reasons discussed above, the subject motion should be granted.

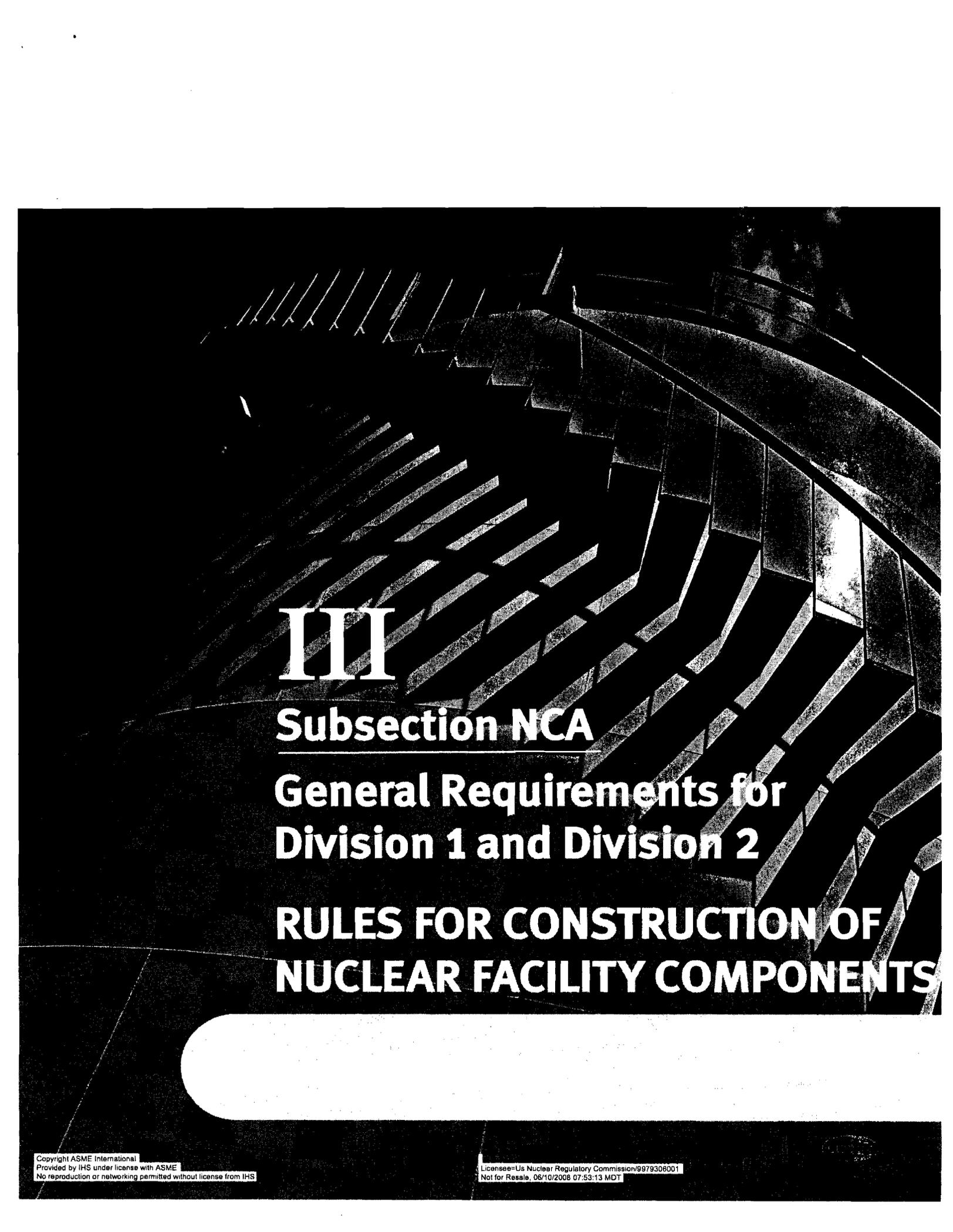
Respectfully submitted,

/RA/

Lloyd B. Subin
Counsel for NRC Staff

Dated at Rockville, Maryland
this 12th day of June, 2008

STAFF EXHIBIT D



III

Subsection NCA

General Requirements for Division 1 and Division 2

RULES FOR CONSTRUCTION OF NUCLEAR FACILITY COMPONENTS

AN INTERNATIONAL CODE

2007 ASME Boiler & Pressure Vessel Code

2007 Edition

July 1, 2007

(ACI Standard 359-07)

III

Subsection NCA

General Requirements for Division 1 and Division 2

RULES FOR CONSTRUCTION OF NUCLEAR FACILITY COMPONENTS

ASME Boiler and Pressure Vessel Committee
Subcommittee on Nuclear Power

ACI-ASME Joint Technical Committee



Date of Issuance: July 1, 2007
(Includes all Addenda dated July 2006 and earlier)

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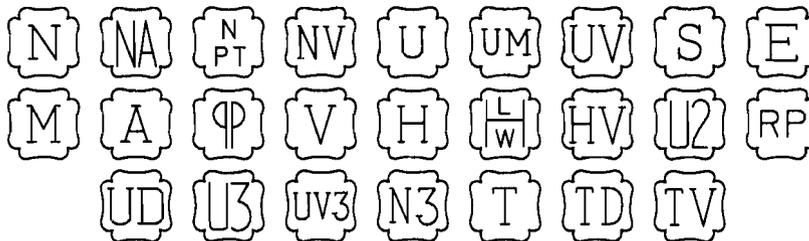
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ORGANIZATION OF SECTION III

1 GENERAL

Section III consists of Division 1, Division 2, and Division 3. These Divisions are broken down into Subsections and are designated by capital letters preceded by the letter "N" for Division 1, by the letter "C" for Division 2, and by the letter "W" for Division 3. The following eleven books make up the three Divisions.

Subsection NCA — General Requirements for Division 1 and Division 2

Division 1

- Subsection NB — Class 1 Components
- Subsection NC — Class 2 Components
- Subsection ND — Class 3 Components
- Subsection NE — Class MC Components
- Subsection NF — Supports
- Subsection NG — Core Support Structures
- Subsection NH — Class 1 Components in Elevated Temperature Service

Appendices

Division 2 — Code for Concrete Containments

Subsection CC — Concrete Containments and Division 2 Appendices

Division 3 — Containments for Transportation and Storage of Spent Nuclear Fuel and High Level Radioactive Material and Waste

Subsection WA — General Requirements for Division 3

Subsection WB — Class TP (Type B) Containment

Subsection WC — Class SC Storage Containments

2 SUBSECTIONS

Subsections are divided into Articles, Subarticles, paragraphs, and, where necessary, subparagraphs and subsubparagraphs.

3 ARTICLES

Articles are designated by the applicable letters indicated above for the Subsections followed by Arabic numbers, such as NB-1000. Where possible, Articles dealing with the same topics are given the same number in each Subsection in accordance with the following general scheme:

Article Number

Title

1000	Introduction or Scope
2000	Material
3000	Design
4000	Fabrication and Installation
5000	Examination
6000	Testing
7000	Overpressure Protection
8000	Nameplates, Stamping, and Reports

The numbering of Articles and the material contained in the Articles may not, however, be consecutive. Due to the fact that the complete outline may cover phases not applicable to a particular Subsection or Article, the rules have been prepared with some gaps in the numbering.

4 SUBARTICLES

Subarticles are numbered in units of 100, such as NB-1100.

5 SUBSUBARTICLES

Subsubarticles are numbered in units of 10, such as NB-2130, and generally have no text. When a number such as NB-1110 is followed by text, it is considered a paragraph.

6 PARAGRAPHS

Paragraphs are numbered in units of 1, such as NB-2121.

7 SUBPARAGRAPHS

Subparagraphs, when they are *major* subdivisions of a paragraph, are designated by adding a decimal followed by one or more digits to the paragraph number, such as NB-1132.1. When they are *minor* subdivisions of a paragraph, subparagraphs may be designated by lowercase letters in parentheses, such as NB-2121(a).

8 SUBSUBPARAGRAPHS

Subsubparagraphs are designated by adding lowercase letters in parentheses to the *major* subparagraph numbers, such as NB-1132.1(a). When further subdivisions of *minor* subparagraphs are necessary, subsubparagraphs are designated by adding Arabic numerals in parentheses to the subparagraph designation, such as NB-2121(a)(1).

9 REFERENCES

References used within Section III generally fall into one of the following four categories.

(a) *References to Other Portions of Section III.* When a reference is made to another Article, Subarticle, or paragraph, all numbers subsidiary to that reference shall be included. For example, reference to NB-3000 includes all material in Article NB-3000; reference to NB-3200 includes all material in Subarticle NB-3200; reference to NB-3230 includes all paragraphs NB-3231 through NB-3236.

(b) *References to Other Sections.* Other Sections referred to in Section III are the following:

(1) *Section II, Materials.* When a requirement for a material, or for the examination or testing of a material, is to be in accordance with a specification such as SA-105, SA-370, or SB-160, the reference is to material specifications in Section II. These references begin with the letter "S."

(2) *Section V, Nondestructive Examination.* Section V references begin with the letter "T" and relate to the nondestructive examination of material or welds.

(3) *Section IX, Welding and Brazing Qualifications.* Section IX references begin with the letter "Q" and relate to welding and brazing requirements.

(4) *Section XI, Rules for Inservice Inspection of Nuclear Power Plant Components.* When a reference is made to inservice inspection, the rules of Section XI shall apply.

(c) *Reference to Specifications and Standards Other Than Published in Code Sections*

(1) Specifications for examination methods and acceptance standards to be used in connection with them are published by the American Society for Testing and Materials. At the time of publication of Section III, some such specifications were not included in Section II of this Code. A reference to ASTM E 71-64 refers to the specification so designated by and published by ASTM, 100 Barr Harbor Drive, West Conshohocken, PA 19428.

(2) Dimensional standards covering products such as valves, flanges, and fittings are sponsored and published by the American Society of Mechanical Engineers and

approved by the American National Standards Institute.¹ When a product is to conform to such a standard, for example ANSI B16.5, the standard is approved by the American National Standards Institute. The applicable year of issue is that suffixed to its numerical designation in Table NB-3132-1, for example ANSI B16.5-1977. Standards published by the American Society of Mechanical Engineers are available from ASME, 22 Law Drive, Box 2300, Fairfield, NJ 07007-2300.

(3) Dimensional and other types of standards covering products such as valves, flanges, and fittings are also published by the Manufacturers Standardization Society of the Valve and Fittings Industry and are known as Standard Practices. When a product is required by these rules to conform to a Standard Practice, for example MSS SP-6, the Standard Practice referred to is published by the Manufacturers Standardization Society of the Valve and Fittings Industry, 127 Park Street, N.E., Vienna, VA 22180. The applicable year of issue of such a Standard Practice is that suffixed to its numerical designation in Table NB-3132-1, for example MSS SP-6-1963.

(4) Specifications for welding and brazing materials are published by the American Welding Society, 550 N.W. LeJeune Road, Miami, FL 33135. Specifications of this type are incorporated in Section II and are identified by the AWS designation with the prefix "SF," for example SFA-5.1.

(5) Standards applicable to the design and construction of tanks and flanges are published by the American Petroleum Institute and have designations such as API-620 and API-2000. When documents so designated are referred to in Section III, they are standards published by the American Petroleum Institute.

(d) *References to Appendices.* Two types of Appendices are used in Section III and are designated Mandatory and Nonmandatory.

(1) Mandatory Appendices contain requirements which must be followed in construction; such references are designated by a Roman numeral followed by Arabic numerals. References to II-1100 or XI-3212, for example, relate to the Mandatory Appendices.

(2) Nonmandatory Appendices provide information or guidance for the use of Section III; such references are designated by a capital letter followed by Arabic numerals. A reference to D-1100, for example, relates to a Nonmandatory Appendix.

¹ The American National Standards Institute (ANSI) was formerly known as the American Standards Association. Standards approved by the Association were designated by the prefix "ASA" followed by the number of the standard and the year of publication. More recently, the American National Standards Institute was known as the United States of America Standards Institute. Standards were designated by the prefix "USAS" followed by the number of the standard and the year of publication. While the letters of the prefix have changed with the name of the organization, the numbers of the standards have remained unchanged.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
ENTERGY NUCLEAR VERMONT YANKEE,) Docket No. 50-271-LR
LLC, and ENTERGY NUCLEAR)
OPERATIONS, INC.) ASLBP No. 06-849-03-LR
)
(Vermont Yankee Nuclear Power Station))

CERTIFICATE OF SERVICE

I hereby certify that copies of the "NRC STAFF'S MOTION IN LIMINE TO STRIKE TESTIMONY AND EXHIBITS FILED BY NEW ENGLAND COALITION, INC" in the above-captioned proceeding have been served on the following by electronic mail with copies by deposit in the NRC's internal mail system or, as indicated by an asterisk, by electronic mail, with copies by U.S. mail, first class, this 12th day of June, 2008.

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