

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-110; NRC-2015-0028]

Applicability of Risk-Informed Categorization Regulation to Combined Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of docketing.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has received a petition for rulemaking from Michael D. Tschiltz, on behalf of the Nuclear Energy Institute (NEI or the petitioner), dated January 15, 2015, requesting that the NRC clarify the applicability of an NRC regulation to combined licenses (COLs). The NRC regulation allows structures, systems, and components (SSCs) of nuclear power reactors to be re-categorized based upon risk-informed considerations. Such re-categorization would result in changes in which NRC requirements would apply to those SSCs. The petition was docketed by the NRC on February 6, 2015, and has been assigned Docket No. PRM-50-110. The NRC is not requesting public comment on PRM-50-110 at this time.

DATES: The PRM is available on **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Please refer to Docket ID NRC-2015-0028 when contacting the NRC about the availability of information for this petition. You may obtain publicly-available information related to this petition by any of the following methods:

- **Federal rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2015-0028. Address questions about NRC dockets to Carol Gallagher;

telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Yanelly Malave-Velez, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-1519; e-mail: Yanelly.Malave@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. The Petitioner.

The petition states that "NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues" (ADAMS Accession No. ML15037A481). The petition further states that "NEI's members include all entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, nuclear material licensees, and other

organizations and individuals involved in the nuclear energy industry. NEI asserts that it is responsible for coordinating the combined efforts of licensed facilities on matters involving generic NRC regulatory policy issues and generic operational and technical regulatory issues.”

II. The Petition.

Michael D. Tschiltz, Director, Risk Assessment, NEI, submitted the petition for rulemaking dated January 15, 2015, requesting that the NRC amend its regulations in § 50.69 of Title 10 of the *Code of Federal Regulations* (10 CFR), “Risk-Informed Categorization and Treatment of Structures, Systems, and Components for Nuclear Power Reactors,” to clarify the scope of applicability to include holders of COLs. The NRC has determined that the petition meets the threshold sufficiency requirements for a petition for rulemaking under § 2.802, “Petition for rulemaking,” and the petition has been docketed as PRM-50-110.

III. Discussion of the Petition.

The entities that may use § 50.69, as set forth in paragraph (b)(1), are holders of a license to operate a light-water reactor (LWR) under 10 CFR part 50; holders of a renewed LWR license under 10 CFR part 54; applicants for a construction permit or operating license under 10 CFR part 50; and applicants for a design approval, a combined license, or manufacturing license under 10 CFR part 52. The regulation does not apply to holders of COLs.

The petitioner is requesting that § 50.69 be amended to clarify the scope of its applicability to include holders of COLs.

IV. Background Information.

Section 50.69 provides an alternative set of requirements for the treatment of SSCs. Under this framework, licensees (or applicants), using a risk-informed process to categorize SSCs according to their safety significance, can remove SSCs of low safety significance from the scope of certain identified special treatment requirements. For SSCs of safety significance,

existing requirements are retained, and § 50.69 would add requirements that ensure SSC performance remains consistent with that relied upon in the categorization process for beyond design basis conditions. These requirements can be voluntarily adopted by LWR licensees and applicants. Section 50.69 was most recently amended by the NRC in a rulemaking titled, “Risk-Informed Categorization and Treatment of Structures, Systems and Components for Nuclear power Reactors,” published in the *Federal Register* as a proposed rule on May 16, 2003 (68 FR 26511), and later as a final rule on November 22, 2004 (69 FR 68008). The final rule became effective on December 22, 2004.

The applicability and scope of the NRC’s regulations in § 50.69 currently applies to a holder of a license to operate a LWR under 10 CFR part 50; a holder of a renewed LWR license under 10 CFR part 54; an applicant for a construction permit or operating license under 10 CFR part 50; or an applicant for a design approval, a COL, or manufacturing license under 10 CFR part 52. A holder of a COL issued under 10 CFR part 52 is not included in the group of entities that may take advantage of the provisions of § 50.69.

The specific reasons for excluding COL holders from the group of entities that may take advantage of the provisions of § 50.69 were not discussed in the *Federal Register* notice for either the proposed or final “Risk-Informed Categorization and Treatment of Structures, Systems and Components for Nuclear Power Reactors” rule. However, as discussed at a public meeting on October 17, 2012 (ADAMS Accession No. ML12341A153), the NRC staff provided the following reasons:

1. After issuance of the COL, the staff was concerned primarily that implementation of the provisions of § 50.69 in the midst of construction and Inspections, Tests, Analysis, and Acceptance Criteria (ITAAC) closure would lead to proposed changes in the NRC’s approved requirements on some SSCs prior to the Commission making a finding regarding the COL ITAAC acceptance criteria in accordance with § 52.103(g). Such a situation could create an unexpected budget shortfall related to a higher resource burden for the NRC due to an increased number of license amendments submitted for review concurrent with supporting

construction and ITAAC completion and complicate the NRC's ability to reach a finding under § 52.103(g).

2. Since the proposed rule allowed for the provisions of § 50.69 to be adopted as part of the COL application, COL applicants could take advantage of these provisions as part of the COL review. This approach would be consistent with the NRC's Principles of Good Regulation regarding efficiency, since the staff believed that implementation of the provisions of § 50.69 following the Commission's making a finding per § 52.103(g) would require substantial additional resources to conduct the review of license amendments necessary to implement the provisions of § 50.69.

The NRC did not receive any comments from the nuclear industry nor the general public on the absence of COL holders from the applicability provisions of the proposed rule. The final rule, as issued, retained this feature of the proposed rule.

The NRC is examining the issues raised in PRM-50-110 to determine whether they should be considered in rulemaking. The NRC is not requesting public comment at this time.

Dated at Rockville, Maryland, this 20th day of March, 2015.

For the Nuclear Regulatory Commission.

/RA/

Kenneth R. Hart, Acting,
Secretary of the Commission.