

envirosphere company

A Division of EBASCO SERVICES INCORPORATED

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SECRET (crossed out) PROPOSED RULE PR 50
45 FR 67099

November 24, 1980



Secretary of the Commission
US Nuclear Regulatory Commission
Washington, DC 20555

Attention: Docketing and Service Branch

Gentlemen:

Subject: PLAN TO REQUIRE LICENSEES AND APPLICANTS TO
DOCUMENT DEVIATIONS FROM THE STANDARD REVIEW PLAN

Envirosphere Company, a division of Ebasco Services Incorporated, has reviewed the subject Federal Register Notice (Volume 45, No. 198, October 9, 1980), and we wish to offer the following comments:

- (1) We believe that the plan proposed by the Nuclear Regulatory Commission extends considerably beyond the intent of the Congress in enacting Section 110 of the Fiscal Year 1980 Authorization Bill. This belief is reinforced by a letter to Chairman John F. Ahearne from five Congressmen, one of whom was directly involved on the joint committee responsible for development of the compromise bill. In their letter to Commissioner Ahearne, the Congressmen note, and we concur, that the NRC Staff Plan "does not conform to the requirements of that act (Section 110, the Bingham Amendment), and that the NRC has taken no initial steps to identify which regulatory requirements are of particular significance to safety." EnviroSphere/Ebasco further believe that, by the careful wording of Section 110, Congress intended that the NRC develop a plan related only to currently operating utilization facilities, with reference to current "significant" rules and regulations. The plan proposed in the Federal Register Notice goes well beyond this narrowly defined boundary. We recommend that the staff revamp that plan to fit within the narrower context which we believe Congress envisioned.
- (2) We note also that the Nuclear Safety Oversight Committee, in its September 26, 1980 letter to President Carter, expressed concern with the proposed NRC plan, in that said plan would "require many hundreds of staff-years of effort in redundant and unproductive work ... manpower that might be better utilized in more carefully targeted areas such as generic safety issues, development of the Office for Analysis and evaluation of operational data, and implementation of the (TMI) Action Plan." We concur with these sentiments, and note fur-

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ther that the hundreds of man-years of effort are more likely to be extended by the nuclear industry, with the Staff role relatively minor.

- (3) We are in wholehearted agreement with the letter to Chairman Ahearne from the Atomic Industrial Forum, dated September 29, 1980, which expressed deep concern with the proposed plan. Points made in the AIF letter should be seriously considered by the Staff when they amend their proposed plan. The concerns expressed by the AIF letter - in the areas of massive manpower requirements, questionable significance to safety, interference with substantive ongoing programs such as IREP and NREP, misuse of scarce manpower resources, and documentation for the sake of documentation - are also concerns of Envirosphere/Ebasco Services Incorporated. We believe that the present burden on the industry, arising from implementation of the TMI Lessons Learned, and related NRC requests for substantive requirements for additional information in this area and in areas such as additional reliability analyses, accident and transient analyses, and documentation of the designs imposed by NUREGs-0578, 0694, 0660 and 0737, will soon become overbearing, should the proposed staff plan for a systematic evaluation be imposed.
- (4) We believe that the NRC's own General Counsel has indicated to the Commission (L Bickwit, Jr memo dated August 14, 1980) that a prerequisite to license issuance includes a finding that all applicable safety regulations are complied with and that the safety review process conducted during the Operating License review is a legally adequate basis for a compliance finding. Although the General Counsel's memo indicates some need for improvement, we do not believe that legal recommendations provide a sufficient basis for the NRC to require such a massive extrapolation from the intent of Congress. We should note further that the NRC Executive Director for Operations (Secy-80-414, dated September 9, 1980) has also expressed concern with the potential resources implications both for the NRC and for the industry. Pursuant to the comment above relating to proper allocation of resources, we see no useful purpose in the implementation of the staff plan for a systematic safety evaluation as presently proposed.
- (5) We believe that plants presently licensed to operate meet current NRC rules and regulations, and that adequate demonstration of such exists within NRC's own files via response to the Staff's questions during the Operating License review, the Safety Evaluation Reports and supplements thereto issued by the Staff, the review conducted by the Advisory Committee on Reactor Safeguards, the issues aired and resolved during Atomic Safety and Licensing Board hearings, and during further reviews of Atomic Safety and Licensing Appeal Boards.

We believe that the Staff should seriously consider this "equivalency" argument, rather than requiring all licensees to perform a detailed documentation exercise, the resultant benefits of which remain suspect.

- (6) We believe that the Staff's proposed plan is contrary to the previous strong recommendations made by both the Kemeny Commission and Rogovin Committee with regard to the staff's misdirection of resources in needless reviews of applications, rather than directing staff attention to the safety of currently operating plants. The staff's proposed evaluation plan, in our minds, has marginal safety significance and its sole function appears to be simply a tidying-up process for legalistic purposes.
- (7) The NRC should delay implementation of its proposed plan until it develops, for public comment, its criteria for what constitutes a "significant" or "particularly significant" rule or regulation. We have reviewed various Staff proposals made thus far and recommend that the stringent criterion be further developed, since this would be more in line with the intent of Congress in promulgating the Bingham Amendment.
- (8) We do not see the need for the staff, in attempting to respond to Section 110, to implicate current Operating License applications or Construction Permit applications; Section 110 clearly states that Congress desires a plan concerning itself with "currently operating" facilities. While the NRC Staff may wish to extend such a plan in a systematic way to current applications, we believe that such application, by law, is a Staff responsibility and should not be delegated to the applicants themselves. We would propose, therefore, that the Staff systematically evaluate currently operating facilities using a stringent criterion; and that the Staff should explicitly recognize equivalent methods to demonstrate compliance with regulations and, more importantly, NRC's constantly fluctuating requirements as expressed in Staff positions, Regulatory Guides and other requirements.

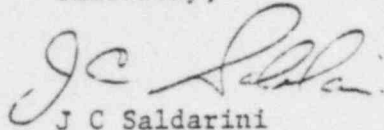
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In summary, therefore, we believe that the staff can fully respond to the Congressional mandate by a systematic method which imposes minimal restraints upon both NRC and industry resources. The proposed plan should be withdrawn; the staff should issue for comment its criteria for defining significant regulations, and the staff should propose a plan which is directed to operating facilities only. Envirosphere/Ebasco, through our involvement with the Atomic Industrial Forum, is more than ready to assist the staff in developing both the criteria and the revised plan.

Sincerely,



J C Saldarini
Manager of Licensing

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