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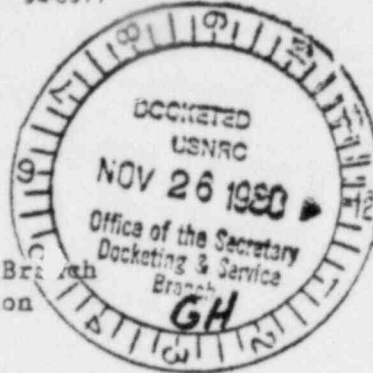
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PROPOSED RULE

45 FR 6709

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November 24, 1980

Secretary of the Commission
Attention Docketing and Service Branch
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dear Sir:

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

We are pleased to submit comments on the subject notice of proposed rulemaking as published in the Federal Register on October 9, 1980.

The requirements which the NRC is considering imposing appear to be directed at two related, yet distinct, goals. The first is to respond in part to the requirements of Section 110 of Public Law 96-295 (NRC FY 80 Authorization Bill) to develop a plan for the systematic safety review of currently operating nuclear power plants, including determination of the extent to which each of these plants complies with current rules and regulations which the NRC determines to be of particular significance to the protection of the public health and safety. The second is to provide an improved vehicle by which the NRC can make the requisite findings of compliance with rules and regulations in future licensing actions. Although these goals are reasonable and responsible, this attempt to achieve both with a single program will result in actions which are cumbersome and overreactive with respect to the first, and unnecessary with respect to the second.

The mandate of P.L. 96-295 is to determine the extent of compliance with particularly significant rules and regulations, not interpretive documents such as the standard review plan (SRP). The initial step in accomplishing this task should be the identification of those rules and regulations which are truly of particular significance. The proposed initial step of revising the SRP to reference all regulations, at all points of applicability, will require a diversion of resources that can only delay the accomplishment of the stated goal. Having identified the regulations of specific interest, these should be addressed directly, not through the interpretations of the SRP. The SRP acceptance criteria are often specific acceptable methods of meeting regulations, which should not preclude alternative methods. Therefore, deviation from the SRP (i.e., use of an alternative method) does not equate to noncompliance with regulation. In this sense, use of the SRP as proposed is confusing. Further, use of the SRP in this manner can likely result in an unwarranted escalation of its authority without opportunity for public review and comment. It should also be noted that the SRP is subject to revision with or without change in current regulation as it is largely an

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interpretive document. Thus, justification to the acceptance criteria of the SRP will be less durable in time than direct comparison to the parent regulations.

The granting of an operating license does not relieve the licensee of the requirement to meet current regulations, absent specific exemption from the regulation. Public Law 96-295 does not imply or mandate a program for additional continuous monitoring of this basic premise. Rather, it directs a showing by the Commission at this time, for currently operating facilities, that this is in fact the case. The record exists for this determination, such that it can be documented through direct comparison to the regulations without the addition of the proposed program.

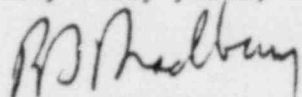
The proposed rule as it applies to applicants for an operating license or a construction permit appears directed to the second goal stated above. This is more closely related to the principal purpose of the SRP, to ensure quality and uniformity of the Staff review. In this context, the SRP is a Staff document intended for staff use, although it is frequently useful to industry in the preparation and support of applications. Should the Staff desire to revise its SRP to reference all rules and regulations where applicable, it is free to do so without rulemaking. This may aid the NRC in making requisite findings in future licensing actions. However, it must be recognized as just that, an aid for the Staff. The requisite findings have been, are being, and must continue to be made by the Commission in all licensing actions. The proposed requirement for certain applicants to identify deviations from the SRP after issuance of an operating license appears directed to Section 110 of P.L. 96-295, although it is clearly not required by that act. Further, this action after issuance of the license is of no assistance to the NRC in making its findings to issue the license. This must be done from the existing record. For licensing actions further in the future, for which the proposed rule requires applicant action before issuance of the operating license or construction permit, the rule is still unnecessary. The NRC must, and will, make its findings from the record. To the extent that revising the SRP will assist the NRC, this can be accomplished without new regulations. As applications are developed and submitted the content and format of the SRP, the desired result is achieved without requiring further action on the part of the applicant. In the interim, the situation is somewhat between these two cases, but still consists of a current review of a current record with sufficient information available, or obtainable on a case basis, to allow the NRC to find compliance with its rules or regulations.

In summary, any proposed rule should be directed toward improvement in safety with due consideration for timeliness as well as NRC and industry resources. The actions identified in the proposed rule go well beyond those required to address the portions of P.L. 96-295 to which they respond. A more direct approach would be more efficient and effective. To the extent the proposed rule addresses the NRC desire to improve its review of future actions, this is accomplished through ongoing revision of the SRP, an activity which does not require rulemaking.

November 24, 1980

Stone & Webster Engineering Corporation appreciates this opportunity to comment on the proposed rulemaking.

Very truly yours,

A handwritten signature in dark ink, appearing to read "R. B. Bradbury". The signature is written in a cursive style with a large initial "R".

R. B. Bradbury
Chief Licensing Engineer

GFD:CM