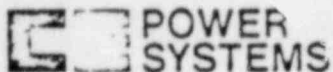


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45 FR 65247

November 14, 1980
LD-80-062



Secretary of the Commission
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

ATTN: Docketing and Service Branch

Subject: Proposed Licensing Requirements for Pending Construction Permit
and Manufacturing License Applications

- References: (A) 45 Federal Register 65247, October 2, 1980.
(B) 45 Federal Register 65474, October 2, 1980.
(C) 45 Federal Register 67099, October 9, 1980.

Gentlemen:

Combustion Engineering (C-E) has reviewed the subject Federal Register notice, Reference (A). That notice discussed the NRC position with respect to a set of requirements which are necessary and sufficient to resume the review and approval of construction permit (CP) and manufacturing license (ML) applications, and requested comments on that position. In addition, the notice requested comments regarding a proposed rule that would require CP and ML applicants to identify and provide the bases for all deviations from the acceptance criteria provided in the Standard Review Plan (SRP). We would like to take this opportunity to provide you with some observations on certain aspects of the NRC position and some comments regarding that proposed rule.

C-E agrees with the Commission's intent of defining the set of TMI-related requirements that are necessary and sufficient to resume NRC review and approval of pending CP and ML applications. These requirements should be issued in an expeditious manner so that NRC staff action on these applications, suspended now for nearly 17 months, may recommence.

In developing its position with respect to the necessary and sufficient TMI-related requirements that should be applied in the review of applications for CP's and ML's, the Commission considered three options and is currently leaning toward Option (3). We note that the Commission has previously issued a policy statement directing that operating license applications should be measured against current regulations, as augmented

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by specifically identified TMI-related requirements. C-E believes that this approach, Option (1), is a sufficient basis to resume review and approval of CP and ML applications as well. We do not believe, as is stated in Reference (A), that Option (3) introduces a degree of stability into the CP review process. On the contrary, by requiring open ended commitments to future changes from the TMI Action Plan, future revisions to the Standard Review Plan (SRP), and the results of extensive rule-making such as "Consideration of Degraded or Melted Cores in Safety Regulation", Reference (B), the Commission is adding uncertainty to the review process. In addition, the degree to which a CP or ML applicant desires to provide for early consideration of potential new regulatory requirements versus incorporation of ultimately required features by backfitting, is an economic decision which should be made by the utility.

When considering these options, the Commission should also consider the impact of Option (3) with respect to the integration of these requirements into an overall safety goal. For example, in its policy on degraded core rulemaking the Commission should seriously consider whether it is in the best interest of the health and safety of the public to require an applicant's "evaluation of the additional features, both preventative and mitigative, they propose to include at their facilities that have the potential for significant risk reduction". It is inappropriate to anticipate the outcome of the rulemaking proceedings by evaluating plant specific hardware changes which have not been fully evaluated with respect to the level of increased safety they will provide. C-E believes that no plant specific hardware changes should be proposed until the various concepts being evolved have been evaluated in relation to an overall safety goal. By determining an overall safety goal and evaluating the total impact of all preventative and mitigative features used in achieving that goal, the Commission can then determine what additional measures, if any, are needed for the protection of the health and safety of the public. In addition, by proceeding in this fashion, the Commission will also ensure that no additional features have been required of different plants of a similar design solely on the basis of its stage in construction. In fact, unless it is site specific, no standardized plant should be required to make any change that is not ultimately required of all plants of the same design.

C-E believes that the Commission's transition policy on siting for CP applicants, as defined in Reference (A), goes beyond what is necessary to resume licensing activity on pending CP applications. The Congressional requirement (in Section 108 of the 1980 NRC Authorization Act) for the NRC to develop and promulgate regulations establishing demographic requirements for siting clearly exempts any facility for which an application for a CP was filed on or before October 1, 1979. It is recommended that the Commission's policy reflect the Congressional intent and be applied only to those CP applications filed after that date.

Finally, C-E strongly disagrees with the NRC's "Plan to Require Licensees and Applicants to Document Deviations from the Standard Review Plan", Reference (C), and will comment separately on that notice. We particularly disagree with the plan as it is being applied to CP and ML applicants. The reasons given for this new requirement are to enhance the staff's quality of review, assist the staff in making determinations required by 10 CFR Part 50 and more clearly identify the bases for acceptability of the facility design and its relationship to current licensing criteria. In some cases, Safety Evaluation Reports for these pending applications have already been drafted. Only TMI-related requirements remain to be evaluated. A requirement for a second complete review prior to issuing a CP is, therefore, redundant and unnecessary. It does not serve to protect the health and safety of the public. In fact, it will divert large portions of both NRC staff and applicant resources from items of pressing importance and real potential for improving plant safety. The major effect of this rule will be to increase the paperwork burden on both the applicant and the NRC. As previously stated, C-E intends to provide additional comments regarding this rule. We urge you, however, to separately reassess this rule as it will be applied to pending CP and ML applicants.

If I can provide any additional clarifying comments in this matter, please advise.

Very truly yours,

COMBUSTION ENGINEERING, INC.



A. E. Scherer
Director
Nuclear Licensing

AES:dac