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Americans for Nuclear Energy, Inc.

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October 15, 1990

Mr. Samuel J. Chilk
Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Re.: (1) Nuclear Power Plant License Renewal-
Proposed Rule - 55 FR 299043 - July 17, 1990
(2) License Renewal for Nuclear Power Plants; Scope of Environmental Effects - Advance Notice of Proposed Rulemaking - 55 FR 29964 - July 23, 1990

Dear Mr. Secretary:

AFNE supports the Commission's intent to specify in its regulations the procedures, criteria, and standards to govern the license renewal process. The 40-year limit for the operating license of nuclear power plants now in commercial operation in the United States was established in the Atomic Energy Act of 1954. The limit was imposed to set some appropriate duration for the licenses and to accommodate the normal period for utility debt financing. No technical reason has been identified to preclude the safe operation of these plants beyond the first 40 years.

The North American Electric Reliability Council (NERC) projects that without the addition of new base-load capacity, electric power demand will exceed capacity after the year 2000. At the same time, the licenses of many currently operating nuclear power plants - now providing close to 20% of the nation's generating capacity - will begin to expire. Thus, the continued operation of these nuclear plants will play a vital role in the economic well being of our country.

In order to make license renewal a viable option we must have a well defined and stable process. A license renewal process with high uncertainties about its duration or outcome will not be viable. Similarly, licensees will steer away from a license renewal process that offers the opportunity to reopen issues in the current license, or that could result in the imposition of new requirements.

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We agree with the Commission that the levels of safety provided by the current nuclear power plants are adequate and that these should be maintained during the term of extended operation. Thus, we support Alternative B in the regulatory analysis for the proposed rule (NUREG 1362).

Although we support Alternative B and concur with the overall conclusions of the regulatory analysis, we must point out that this analysis appears to underestimate the benefits of Alternative B over Alternative A and the costs of Alternative C and D with respect to Alternative B. For example, the regulatory analysis indicates that Alternative B would maintain the current core damage frequencies. We believe that the additional surveillance, maintenance, and replacement activities that will be in place to address the aging of the plants and to maintain the current licensing bases are likely to improve the safety of the plants and to decrease their current core damage frequencies. On the other hand, the reductions in core damage frequencies calculated for Alternatives C and D are clearly overestimated.

As we indicate above, the license renewal process should not present the opportunity for the uncontrolled imposition of new requirements or the rereview of issues not directly related to license renewal. We can see no reason why the "backfit rule" (10 CFR 50.109) should not apply in its entirety to the license renewal review process. For example, the statement of considerations for the proposed rule states that all age-related requirements found necessary to ensure adequate protection during the extended life of the plants would be imposed without regard to cost. This is consistent with the "backfit rule." However, not applying the "backfit rule" to the license renewal process would deny a licensee of the protection provided by section 50.209(a)(7), which states that "if there are two or more ways to reach a level of protection which is adequate, then ordinarily the applicant or licensee is free to choose the way which best suits its purpose."
We urge the Commission to incorporate by reference the "backfit rule" into the proposed new Part 54.

We also question the proposed requirement for licensees to compile and maintain in auditable form their current licensing bases. We consider this an unwarranted requirement. No similar requirement applies for the granting of the original operating license. We are particularly concerned because this requirement would easily lead to the litigation of issues regarding the inclusion or exclusion of specific documents in the current licensing bases, as well as their adequacy and completeness. This is an administrative burden with no safety benefits. We urge the Commission to delete it from the proposed new Part 54.

We strongly support the Commission's intent to generically address the potential environmental impacts of operating nuclear power plants under a renewed license and to codify the results. However, we are skeptical that the Commission can fulfill its

stated goals through the intended generic environmental impact statement (GEIS). Past experience with generic environmental impact statements tells us that these can take an inordinate amount of time and agency resources.

As a more practical option, we recommend that the Commission prepare instead a generic survey of the environmental impacts of license renewal, and that it use this survey to determine those impacts that are not relevant or significant and those that can be treated generically. These results should be codified in the Commission's Part 51. This approach would provide greater flexibility, while at the same time facilitating and expediting the license renewal environmental reviews.

As a final matter we want to urge the Commission to initiate a rulemaking proceeding to eliminate the existing 10 CFR 51.20(b)(2) requirement that an environmental impact statement (EIS) be prepared for each license renewal that it grants.

The requirement for an EIS for license renewals was not included in 51.20(b)(2) when it was published for comment as a proposed rule, nor was it addressed when the final rule was promulgated in 1984. Thus, it has never been explained or justified. This requirement is also contrary to NRC practice of first preparing an environmental assessment (EA) and, if found necessary, an EIS. Preparation of an EIS should not necessarily be inevitable when renewing a nuclear plant operating license. The environmental effects of license renewal will differ for each facility, and in most, if not all, cases are likely to be insignificant. Maintaining the requirements for an EIS will result in the expenditure of unnecessary resources and potential delays in the disposition of license renewal applications. Neither NEPA nor CEQ regulations bar the Commission from reverting to its usual practice of first preparing an EA, followed by an EIS only when found necessary by the results of the EA.

Sincerely,

Douglas O. Lee

Douglas O. Lee
Chairman