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PROPOSED RULE

WINSTON & STRAWN (55 FR 29043)

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June 21, 1991

Chairman Kenneth M. Carr
U.S. Nuclear Regulatory Commission
Washington, D.C. 20005

Re: NRC Backfitting Policy for License Renewal

Dear Sir:

On behalf of the Nuclear Utility Backfitting and Reform Group, we are writing to request that some minor clarification be added to the backfitting discussion in the recommended Final Rule on Nuclear Power Plant License Renewal (Part 54). The Staff forwarded its recommended Final Rule to the Commissioners for approval in SECY 91-138.

The proposed Statement of Considerations to accompany the new Part 54 states (at page 91) that age-related changes to the current licensing basis necessary to ensure "compliance" and "adequate protection" will be imposed without regard to cost, in a manner "analogous" to the pertinent exceptions to the NRC's backfitting rule, 10 C.F.R. § 50.109. The Statement of Considerations does not explicitly state how age-related degradation requirements beyond "adequate protection" and "compliance" will be handled from a backfitting viewpoint. While it may be implicit that such new requirements would be justified with a backfitting analysis, the Commission's intent should be stated explicitly to avoid misunderstandings during future renewal cases. We note that the proposed rule did expressly state that any age-related requirement going beyond "adequate protection" and "compliance" would require a backfit analysis addressing the factors of Section 50.109(c). 55 Fed. Reg. 29043, 29052 (July 17, 1990).

Accordingly, we believe the Commission should reinsert in the Part 54 Statement of Considerations the following language

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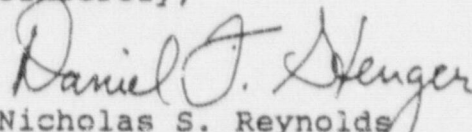
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from the proposed rule (the modifier "substantial" should be included to parallel Section 50.109):

If a proposed requirement to address age-related degradation goes beyond what is necessary to ensure adequate protection or compliance with the current licensing basis, the staff must prepare a backfit analysis that addresses the factors in § 50.109(c) and shows that the direct and indirect costs of implementing the proposed requirement are justified in view of the [substantial] increase in the overall protection of the public health and safety or the common defense and security to be derived from the proposed requirement.

This clarification will help ensure stability and predictability during the renewal process, and is necessary to maintain consistency with the Commission's determination that the current licensing basis is adequate for renewal purposes.

Sincerely,


Nicholas S. Reynolds
Daniel F. Stenger

Counsel to the Nuclear Utility
Backfitting and Reform Group

cc: Commissioner James R. Curtiss
Commissioner Forrest J. Remick
Commissioner Kenneth C. Rogers ,