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Subject: [External_Sender] Westinghouse Comment: Alignment of Licensing Processes and Lessons Learned from New Reactor Licensing: Regulatory Basis Docket ID NRC-2009-0196
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Please consider the attached Westinghouse comment on the Regulatory Basis for the Part 50/52 Lessons Learned rulemaking. Contact me with any questions.

Thank you,

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References:

1. ML20149K680, Regulatory Basis for Public Comment, Alignment of Licensing Processes and Lessons Learned from New Reactor Licensing, NRC Docket ID: NRC-2009-0196
2. Federal Register Notice Vol. 86, No 18, January 29, 2021, NRC-2009-0196; RIN 3150-AI66 Alignment of Licensing Processes and Lessons Learned From New Reactor Licensing
3. ML19161A169, SECY-19-0084 – Status of Rulemaking to Align Licensing Processes and Lessons Learned from New Reactor Licensing, September 5, 2019
4. ML19247B731, ACRS Subcommittee Meeting: Alignment of Licensing Processes and Lessons Learned from New Reactor Licensing Rulemaking, September 20, 2019
5. ML18331A379, Consideration of Scope of Rulemaking to Update Regulations for Future New Reactor Licensing Applications, January 15, 2019
6. ML19304A144, Public Meeting: Status of Rulemaking to Align Licensing Processes and Apply Lessons Learned from ANew Reactor Licensing, November 21, 2019

Subject: Comment Submittal, Docket ID NRC-2009-0196, Alignment of Licensing Processes and Lessons Learned From New Reactor Licensing

Westinghouse Electric Company LLC (Westinghouse) appreciates the NRC maintaining the proposed design certification renewal rule changes as a high priority within the 10 CFR Part 50/52 lessons learned rulemaking. Rule changes will make the design certification process more predictable and efficient. Westinghouse encourages the NRC to continue its work on this important topic. The purpose of this letter is to provide a comment on the Regulatory Basis (Reference 1) and respond to an NRC question asked in the corresponding Federal Register Notice (Reference 2).

Comment on the Regulatory Basis

SECY-19-0084 (Reference 3) identified two items to be included in the Regulatory Basis related to renewal: (1) elimination of DC rule expiration dates and DC renewal requirements; and (2) consolidating and simplifying the change process requirements for DCs to align the DC change process with the requirements in 10 CFR 50.59.

The first item has been addressed in Appendix H.1 of the Regulatory Basis for Public Comment (Reference 1). The NRC staff's recommended Alternative 4 "Removal of Duration of DCs and Renewal Requirements through Rulemaking" is the best approach for reducing unnecessary regulatory burden on applicants and the NRC. As explained in the regulatory basis, there is no health or safety benefit to requiring renewal every 15 years. We encourage the staff to continue to pursue removing expirations of all DCs.

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However, the second item (simplifying the change process requirements for DCs) has not been fully addressed in the Regulatory Basis. Rulemaking should be initiated to permit a DC applicant to voluntarily align the DC with a constructed plant's licensing basis in order to facilitate future COL applications.

Based on Westinghouse's experience with the AP1000, many departures from the generic design control document (DCD) were implemented in the UFSAR during the construction phase to facilitate procurement, fabrication, erection, and design improvements. Some departures required NRC approval with a license amendment request. Other departures were implemented in the UFSAR with no NRC approval by evaluating them under Section VIII of the DC rule (50.59 like process) and concluding they had no adverse impact on the plant. The departures were then included within the plant-specific DCD, summarized in a departure report, and submitted to the NRC under Section X of the DC rule (Records and Reporting).

The same departures that were implemented to facilitate procurement, fabrication, erection, and design improvements at a construction site represent lessons learned and apply to the generic DCD. Therefore, to promote standardization, a DC vendor should have the ability to voluntarily align the DC to a constructed plant's license by implementing these same lessons learned.

As written, the assessment of Alternative 4 (Removal of DC Durations) in Appendix H.1 of the Regulatory Basis (Reference 1) states "*design vendors could amend the certification per paragraph 52.59(c) to address new information and incorporate voluntary changes to support future COL applications*". However, no additional proposed rule change was discussed in the Regulatory Basis to allow a design vendor to incorporate voluntary changes from a constructed and operating facility's licensing basis.

As discussed at several public meetings (References 4-6) there is no current regulatory framework to distinguish between DC renewals for designs that have been licensed and built in verbatim compliance (with a high volume of lessons learned) and designs that have never been constructed in the United States (with a lower volume of lessons learned). The additional scrutiny from the NRC applied to a constructed facility should be appropriately valued during the renewal process. Currently 10 CFR 52.59(c) does not provide for an efficient process (i.e., a simplified change process) to align a DC to a recently constructed operating facility's UFSAR. This issue is generic and applies to all design vendors intending to construct multiple facilities in the United States under 10 CFR 52, not just the Westinghouse AP1000 Design.

Rulemaking should be initiated to permit a DC applicant to voluntarily align the DC with a constructed plant's licensing basis in order to facilitate future COL applications. Changes within the amendment that align with an operating facility's UFSAR should be considered resolved and need no further NRC review and approval. New changes (not found in the operating facilities UFSAR) should be evaluated under the 10 CFR 50.59-like process to determine the need for NRC review and approval.

Departures implemented in an operating facility's UFSAR have already been determined to be safe, meet regulations and have no adverse impact on the facility. Therefore, implementing those same changes into a renewal application is safe and meets regulatory requirements.

Therefore, 10 CFR 52.59(c) should be revised to state:

(c) In addition, the applicant for renewal may request an amendment to the design certification. The Commission shall grant the amendment request if it determines that the amendment will comply with the Atomic Energy Act and the Commission's regulations in effect at the time of renewal. If the amendment request entails such an extensive change to the design certification that an essentially new standard design is being proposed, an application for a design certification must be filed in accordance with this subpart. Departures that have been previously implemented by a COL holder in compliance with Section VIII of the design certification rules will be considered resolved. New changes within the amendment not previously implemented by a COL holder that

require no NRC approval per Section VIII.B.5 of the design certification rules will be considered resolved.

This approach is consistent with the guidance in Reg. Guide 1.206 Rev 1 Section C.2.14, which states:
Departures from Tier 2 made in compliance with Section VIII.B.5 of the DCRs that do not require prior NRC approval will be considered resolved. The NRC staff will not re-review these departures in the COL proceeding, as described in Section VI.B of the DCRs. ... the departure process, if it is properly implemented by a COL applicant, "must logically result in departures which are both 'within the envelope' of the Commission's safety finding for the DCR and for which the Commission has no safety concern. Therefore, it follows that properly implemented departures from Tier 2 should continue to be accorded the same extent of issue resolution as that of the original Tier 2 information from which it was 'derived.'"

Taking no action in the rulemaking to simplify the change process for DCs places an unnecessary regulatory burden on the design vendor and the NRC. There is no health or safety benefit to re-reviewing departures in a proceeding COL. Any new review performed on these departures would also constitute a new review of the operating facility that has already implemented them since the changes are the same.

Revising the rule to implement a simplified change process will reduce NRC and applicant burden without compromising safety. It will greatly simplify the renewal review process and enhance the standardization of COL applications.

Response to the Federal Register Notice Question

The NRC made a specific request for comments regarding several questions related to the rulemaking, including:

4. Should the NRC remove expired DC rules from the appendices to 10 CFR part 52 in the proposed rule?

Response: The approved design certification rules should not be removed from the appendices in 10 CFR Part 52. These rules represent significant investments by the applicants and the NRC to develop and approve both the design certification document and the underlying engineering technical supporting documentation and analysis. These designs were certified by the NRC as being safe and meeting regulations. The NRC has regulations in place to ensure any new safety question or concern related to these certifications would be addressed during the COLA review process.

Westinghouse is available to discuss if further clarification is needed. Questions can be directed to Zachary Harper at 412-374-5093 or harperzs@westinghouse.com.

Sincerely,



Michael M. Corletti, Director

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cc: Anna Bradford
James O'Driscoll