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10 CFR Part 53: Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors

Comment On: NRC-2019-0062-0012

Preliminary Proposed Rule Language: Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors

Document: NRC-2019-0062-DRAFT-0180

Comment on FR Doc # 2020-24387

Submitter Information

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General Comment

Attached is our letter of November 3 concerning a troubling NRC policy involving development of 10CFR53

Attachments

Hybrid Pwr to NRC ltr Nov 3 2021 re NRC Policy

Michael F. Keller
President
Hybrid Power Technologies LLC



November 3, 2021
10CFR53: Troubling NRC Policy

Mr. John Tappert
Director, Division of Rulemaking, Environmental, and Financial Support
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Hybrid Power Technologies LLC Input on the NRC Rulemaking Plan on, Risk-Informed, Technology-Inclusive Regulatory Framework; Proposed 10CFR53.

Mr. Tappert:

This letter stems from discussions during a REF. (1) meeting that centered on trial use Regulatory Guide 1.247 involving non LWR PRA's. The stated purpose of the meeting: *... is for NRC staff to meet directly with individuals to receive comments from participants on specific NRC decisions and actions to ensure that NRC staff understands their views and concerns*".¹ We inquired as to: (1) how and to whom comments, questions and concerns were to be conveyed; and (2) would the NRC staff provide replies to formal public questions. The NRC staff was somewhat flummoxed until the NRC Counsel advised that Title 10, Part 2 Agency Rules of Practice and Procedure, section 2.804 Notice of Proposed Rulemaking would apply when the trial use regulatory guide reached the rulemaking stage. However, resolution to our initial inquires remains more or less adrift. Unclear how the NRC staff can understand public views and concerns using a one-way dialogue. Should not the process include a reasonable two-way means to allow all parties to understand views and concerns? How can issues be resolved when one party remains silent? Troubling questions that point to a bureaucracy that intends only lip service to address public concerns.

These events prompted further investigation on our part relative to the lack of NRC staff formal responses to the numerous comments, questions, and concerns formally submitted via regulations.gov in conjunction with 10CFR53 rulemaking. This has led us to 10CFR2 section 2.805 Participation by Interested Parties, which states:

(a) In all rulemaking proceedings conducted under the provisions of § 2.804(a), the Commission will afford interested persons an opportunity to participate through the submission of statements, information, opinions, and arguments in the manner stated in the notice. The Commission may grant additional reasonable opportunity for the submission of comments.

(b) The Commission may hold informal hearings at which interested persons may be heard, adopting procedures which in its judgment will best serve the purpose of the hearing.

Our assessment is that the 10CFR53 lack of formal NRC staff responses likely stems from an NRC internal management policy involving practices and procedures. As we are not lawyers, we cannot speak to the legal validity of such a policy, particularly when informal hearings are being used or the flexibility of agency procedures. However, we can speak to potential ramifications. The situation provides an ideal mechanism for the NRC staff to simply ignore those (public and stakeholders) who formally disagree with a proposed regulation favored by the NRC staff. In our view, such actions constitute an abuse of authority.

Michael F. Keller
President
Hybrid Power Technologies LLC



November 3, 2021
10CFR53: Troubling NRC Policy

In closing, the radio-silence policy of the NRC is festering a growing lack of trust in the NRC staff and their seemingly unilateral version of 10CFR53. Also, remains unclear how the radio-silence policy complies with the public involvement portion of the REF. (2) Act that is the legal basis for the proposed 10CFR53.

A more enlightened NRC approach would better serve the public interest. Some form of positive clarifying NRC statement involving issue resolution would be helpful in moving the endangered 10CFR53 effort forward.

We are somewhat hopeful that a proper 10CFR53 will be the end result of the development effort.

Regards,

Michael F Keller

Michael F. Keller Professional Engineer – State of Kansas
President
Hybrid Power Technologies LLC

References:

- (1) [ML21287A111](#) - 11/03/2021 Meeting to Discuss NRC endorsement of the Advanced non-LWR PRA Standard and PRA Peer Review Guidance
- (2) Nuclear Energy and Modernization Act, S512 enacted into law.

Endnotes

1. *The subject trial use regulatory guide was not actually linked to an ADAMS ML number as part of the references normally contained in a meeting notice. As such, we had no access to the subject document prior to the meeting and we could therefore not provide "... comments from participants on specific NRC decisions and actions to ensure that NRC staff understands their views and concerns." That exasperating situation prompted our inquiries.*