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SUNI Review Complete
Template=ADM-013
E-RIDS=ADM-03

ADD: Brian Benny, Mary Neely
Comment (1)
Publication Date: 1/14/2022
Citation:87 FR 2361

As of: 3/15/22 2:40 PM
Received: March 15, 2022
Status: Pending_Post
Tracking No. l0s-3g44-imym
Comments Due: March 15, 2022
Submission Type: Web

Docket: NRC-2021-0173
Operational Leakage

Comment On: NRC-2021-0173-0002
Operational Leakage

Document: NRC-2021-0173-DRAFT-0001
Comment on FR Doc # 2022-00686

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General Comment

See attached file(s)

Attachments

NRC_Comment

To: U.S. Nuclear Regulatory Commission

From: Steven M Bright, J.D. Candidate, University of Baltimore School of Law

RE: Regulatory Issue Summary (RIS) Operational Leakage, Docket ID NRC-2021-0173

Memorandum

1. Authority

The Nuclear Regulatory Commission (NRC) derives its authority to promulgate rules, regulations, and interpretations of those rule and regulations though the authority transferred to it by Congress from the Atomic Energy Commission under the provisions of the Energy Reorganization Act of 1974, specifically 42 U.S.C.A. § 584(f). The Atomic Energy Commission (AEC) derived its authority to promulgate rules, regulations, and interpretations of those rule and regulations though the authority granted to it by Congress by the Atomic Energy Act (AEA), signed into law August 1, 1946. The AEA granted the AEC the authority to "make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this chapter." 42 U.S.C.A. § 2201(p). This authority was then transferred to the NRC in the Energy Reorganization Act of 1974. "There are hereby transferred to the [NRC] all the licensing and related regulatory functions of the Atomic Energy Commission, the Chairman and members of the Commission, the General Counsel, and other officers and components of the Commission." 42 U.S.C.A. § 584(f).

Further, under the authority granted to the NRC under the Administrative Procedures Act §553(b), the NRC has adopted the policy, stated in 10 C.F.R. §9.5, that all binding interpretive statements must be in writing and therefore promulgates this Regulatory Issue Summary (RIS). Regulatory Issue Summaries are issued by the NRC to:

1. Communicate and clarify NRC technical or policy positions on regulatory matters that have not been communicated to or are not broadly understood by the nuclear industry;
2. inform the nuclear industry of opportunities for regulatory relief;
3. Communicate previous NRC endorsement of industry guidance on technical or regulatory matters;
4. Provide guidance to applicants and licensees on the scope and detail of information that should be provided in licensing applications to facilitate NRC review;
5. Request the voluntary participation of the nuclear industry in NRC-sponsored pilot programs or the voluntary submittal of information which will assist the NRC in the performance of its functions.

2. Party's Interest

I am writing to submit comments on the Nuclear Regulatory Commission's Regulatory Issue Summary Operational Leakage, Federal Register docket number: NRC-2021-0173. I am a third-year law student at the University of Baltimore School of Law currently enrolled in Administrative Law. In addition to an interest in the general application of the notice and comment process, I live within a fifty-mile radius of the Peach Bottom Nuclear Power Station and therefore have a personal interest in the continued safe operation of nuclear power stations. Given the high stakes involved in the continued safe regulation of nuclear power plants it is imperative that the Nuclear Regulatory Commission maintain the high standards of safety expected of the Nuclear Power community in this country. To that end I will raise some concerns I have with the proposed RIS.

3. Comment

The issue is whether the license holders should be able to use the original construction code applicable to their system to return the pressure vessel to operable standards or should license holders be required to use the codes currently applicable to them under 10 C.F.R. § 50.55a(g)(4, 5). Under 10 C.F.R. § 50.55a(g)(4), during the initial 120-month service interval of the pressure vessel, in-service inspection standards are based on the standards referenced in 10 C.F.R. § 50.55a(a) that are ratified "on the date 18 months before the date of issuance of the operating

license under this part, or 18 months before the date scheduled for initial loading of fuel." 10 C.F.R. § 50.55a(g)(4)(i). Similarly, for successive 120-month service interval pressure vessels, the applicable code will be "the latest edition and addenda of the ASME Code incorporated by reference in paragraph (a) of this section 18 months before the start of the 120–month inspection interval." 10 C.F.R. § 50.55a(g)(4)(ii). While it would seem acceptable to use the original construction code for systems operating in their first 120-month service interval, it would seem imprudent for a license holder in subsequent 120-month inspection intervals to use the code applicable when the facility was built. For the safety of the public, license holders should be required to return their systems to the code applicable for their current inspection interval. As the RIS is stated currently, it appears that a license holder, who has been in operation for more than 120-months, would be required to reference the construction code that was applicable more than 120-months in the past. For example, a licensee that was midway through its first subsequent 120-month inspection interval, might be applying applicable construction codes that are more than sixteen years out of date. The applicable code would be the code that was in place eighteen months before the initial 120-month inspection interval. The hypothetical licensee is sixty months into its first subsequent inspection interval for a total of 198 months since the adoption of the relevant code.

The RIS should be amended to require license holders to apply the code applicable to their current inspection interval. This amendment would increase safety for the public by requiring licensees to use the most up to date building codes with which the licensees have already been required to comply. Using the most up to date building codes increases safety by requiring the use of the most up to date materials and techniques. The adherence to older building codes could allow licensees

to use materials and techniques that have been found unsafe and were eliminated with adoption of revised and newer building codes.

4. Conclusion

The RIS should be revised as stated above to meet the safety mandate issued to the NRC by Congress by the Atomic Energy Act and the Energy Reorganization Act of 1974.