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U.S. NUCLEAR REGULATORY COMMISSION

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PUBLIC MEETING ON

DESIGN CERTIFICATION RULEMAKING

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THURSDAY,

MAY 11, 1995

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ROCKVILLE, MARYLAND

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The public meeting was held in the Auditorium,  
NRC Building 2, Two White Flint North, Room T2B3, 11545  
Rockville Pike at 9:00 a.m., Jerry Wilson, presiding.

PRESENT:

- JERRY N. WILSON
- MARTIN MALSCH
- DENNIS CRUTCHFIELD
- HARRY S. TOVMASSIAN

1 ALSO PRESENT:

2 RALPH ARCHITIEL, NRC/ADAR

3 ROY AULUELE, NRC/RES

4 J. ALAN BEARD, G.E.-N.E.

5 RUSS BELL, Nuclear Energy Institute

6 STAN BLANTON, SO CO

7 TOM BOYCE, NRC/NRR/PDST

8 CHARLES BRINKMAN, ABB - Combustion Engineering

9 MICHAEL J. CASE, NRR

10 TERENCE L. CHAN, OCM

11 JOE CLEARY, Pacific Northwest Laboratory

12 BARTON COWAN, Eckert, Seamans, Cherin & Mellitt

13 JOSEPH R. EGAN, Egan & Associates, P.C.

14 STERLING FRANKS, DOE

15 STEVE FRANTZ, Morgan, Lewis & Bockius

16 MELVIN W. GMYREK, Nuclear Energy Institute

17 HERMAN GRAVES, NRC/RES

18 PAUL GUNTER, Nuclear Information and Resource

19 Service

20 ALISTAR HOWARD, PEPCO

21 ROGER HUSTON, TVA

22 LAWRENCE E. KOKAJKO, NRC

23 NILS LAMNETORS, Embassy of Sweden

24 STEWART MAGRUDER, NRR/ADAR

25 CATHERINE MARCO, NRC

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1 ALSO PRESENT: (cont.)

2 A. MASCIANTONIO, NRC/PIPB

3 BRIAN McINTYRE, Westinghouse

4 GEARY S. MIZUNO, OGC

5 JANICE MOORE, NRC

6 TED QUAY, NRC/NRR/PDST

7 LOUIS N. RIB, LNR Associates

8 MARCUS ROWDEN, Fried, Frank

9 TERRY G. RUDEK, ABB

10 MARK O. SANFORD, TVA

11 DINO SCALETTI, NRR/AOAR

12 FRANK SCIACCA, SEA

13 RON SIMARD, Nuclear Energy Institute

14 B. K. SIMMS, NRC

15 MIKE STEIN, NRC, OGC

16 DAVIS TANG, NRC

17 GEORGE THOMAS, NRR

18 PHILIP E. TROY, Morgan, Lewis & Bockius

19 ROBERT M. WEISMAN, NRC

20 GILBERT ZIGLER, SEA

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## P R O C E E D I N G S

(9:02 a.m.)

1  
2  
3 PANELIST WILSON: My name is Jerry Wilson.  
4 I'm the NRC's lead for design certification rulemaking.  
5 I'd like to welcome you to our public meeting on two of  
6 the design certification rules.

7 This meeting is being recorded. If you would  
8 like to make a statement or ask a question, please use the  
9 microphone and state your name. I want to remind everyone  
10 we had a registration form in back and would like everyone  
11 to sign that. And we'll attach that to the transcript  
12 also.

13 With me today at this panel on my right is Mr.  
14 Tovmassian from Division of Regulatory Applications in the  
15 Office of Research; to his right Mr. Malsch, who is Deputy  
16 General Counsel; and, finally, Mr. Crutchfield, who is the  
17 Associate Director for Advanced Reactors in the Office of  
18 Nuclear Reactor Regulations.

19 The purpose of today's meeting is to respond  
20 to questions about our proposed rules, to clarify the  
21 meaning and intent of the provisions in the two rules that  
22 we have issued and to facilitate your written comments.

23 Now, we're going to address the written  
24 comments, not necessarily comments here in the meeting  
25 today, when we prepare our final rule. So any comments

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1 you want to make, be sure you submit them in writing. And  
2 if your comments rely on other documents, it would  
3 facilitate our effort if you could attach those documents  
4 to your comments also.

5 Now, I'm going to give a little background on  
6 our rule, but I'm not going to spend much time on that. I  
7 want to have our discussion primarily in response to  
8 questions. I just want to point out that we have been  
9 working on design certification here at the NRC for a long  
10 time.

11 We have had two applications that we have been  
12 reviewing since 1987. Those are the advanced boiling  
13 water reactor design submitted by General Electric and the  
14 System 80+ design submitted by Combustion Engineering.

15 During that time we have developed our process  
16 and performed our reviews of these two designs. Something  
17 that's not typical for a normal proposed rule at this  
18 stage is that we have had earlier versions of this rule  
19 published and have received comments on them.

20 So in 1992 we issued an earlier version of the  
21 rule and received comments on them. Then we had an  
22 advance notice of proposed rulemaking in 1993. And the  
23 proposed rules that were recently issued in April of this  
24 year were basically the same as what we had in the advance  
25 notice of proposed rulemaking.

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1 Now, we've also had public meetings in '92 on  
2 the procedures for design certification rulemaking. And  
3 procedures that are set out in the Federal Register are  
4 based on those interactions.

5 And, finally, I want to make a point that  
6 during the time we were doing this effort, there have been  
7 questions about the resource availability that the NRC had  
8 to perform these reviews. Our Chairman has frequently  
9 said that we have two runways here at the NRC. And with  
10 the issuance of two design certification rules on the same  
11 date, I think we can say that both runways are  
12 functioning.

13 Now, the rule itself I have an outline here of  
14 what's in the proposed rules. I'll just point out a  
15 couple of sections and their importance. In Section 4, in  
16 "Contents," we reference, we incorporate by reference, the  
17 design control document. That document describes a  
18 resolution of all of the safety issues that we resolved in  
19 this rulemaking.

20 And we have both of those documents in the  
21 back of the room. On my left is the design control  
22 document for the advanced boiling water reactor. And on  
23 the right in the back is the System 80+ design control  
24 document.

25 And if you have questions or would like to

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1 take a look at that after the close of the meeting, please  
2 feel free to go back and look at that document. We have  
3 project managers back there who are ready to answer your  
4 questions. And you can find out anything you want to know  
5 about that.

6 Section 5 we describe the regulations that  
7 were applicable to this design review. And in Section 6  
8 we identify the documents that describe the safety issues  
9 that are resolved. That's not only the design control  
10 document, but also we perform environmental assessments  
11 dealing with design alternatives. And we have copies of  
12 those up here in the front if you'd like to take a look at  
13 that.

14 Section 8 of the rule has to do with the  
15 change process. The point here is that we want to have a  
16 restrictive change process. We're not trying to encourage  
17 changes. The goals of design certification, as you see  
18 here on the bottom, including standardization and  
19 stability. And you facilitate that by resolving issues  
20 and then preserving those resolutions. And so you'll see  
21 a very restrictive change process in Section 8.

22 And, finally, Section 9 is dealing with  
23 keeping records.

24 Now, we believe that our proposed rules have  
25 achieved the Commission's goals associated with design

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1 certification. And we think we have two good proposed  
2 rules that we're seeking your questions and comments. The  
3 comment period closes on August 7th. And, as I say, we'll  
4 address all of those comments in the preparation of the  
5 final rule.

6 Now, I don't have any other prepared remarks.  
7 I think what I want to do is just open up to questions or  
8 comments about the rules. As I say, what we're trying to  
9 do is be sure that you understand what we're proposing  
10 when you make your comments.

11 So, with that, let me open up the meeting to  
12 questions or comments. Yes?

13 MR. SIMARD: Good morning. My name is Ron  
14 Simard from the Nuclear Energy Institute. We represent  
15 the electric utility companies, the major designers,  
16 architect/engineers, other organizations with an interest  
17 in commercial uses of nuclear power.

18 I have five questions that I'd like to ask by  
19 way of seeking clarification of the staff's intent in the  
20 proposed rules. I'd just like to explain the nature of  
21 the questions.

22 I'd like to point out that in that extensive  
23 record that Mr. Wilson summarized, over several years the  
24 implementation of the goals that were at the bottom of  
25 that Vu-Graph, how we achieve them in practice has been a

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1 subject of intense interest and interactions, not only  
2 among the NRC staff and the industry, but also on the part  
3 of the United States Congress.

4           And in the years while these interactions have  
5 been going on, many issues have been addressed through  
6 this process. And many of these issues have been resolved  
7 in our view fully in concert with those underlying  
8 principles that were at the bottom of Mr. Wilson's slide.  
9 In our view many of these issues have not yet been  
10 resolved.

11           But in keeping with the spirit of this  
12 workshop, I'd just like to explain that our questions are  
13 focused on aspects of the proposed rules where  
14 clarification would help us better understand the staff's  
15 position. Our intent was not to use this forum to pursue  
16 those areas where we think the rules may be clear but we  
17 disagree with the staff's approach to implementation of  
18 some of those goals.

19           I say that to emphasize that our lack of  
20 questions or comments in any special area today should not  
21 be interpreted as agreement with the staff proposals, but  
22 again, in response to Mr. Wilson's request, we will be  
23 addressing those in the public comment period.

24           Having said that, I'd like to ask five  
25 questions which would be helpful to us. The first one has

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1 to do with your process. Could you please explain the  
2 process that you expect to follow and the estimated  
3 schedule for evaluating public comments on these proposed  
4 rules and then proceeding to final version?

5 . . . . . PANELIST WILSON: Yes. In anticipation, I  
6 have a schedule here for one of the proposed rules. This  
7 is for System 80+.

8 Let me point out, first of all, that this is  
9 strictly for planning purposes. The schedule it will take  
10 to complete the final rules will depend on whether or not  
11 we have hearings and how many comments we have and the  
12 controversy associated with those comments.

13 So, for planning purposes, you can see the  
14 comment period closes in August of this year. We expect  
15 that we will be able to analyze and resolve comments by  
16 the end of the year and prepare a paper for Commission  
17 consideration on that. And assuming a normal amount of  
18 comments and no hearing, we expect that in March of '96  
19 that we should be completed with the final rule. Now, as  
20 I say, that's not cast in stone. It depends on what  
21 happens.

22 Now, as you know, there's an opportunity to  
23 request a hearing. That opportunity to make a request  
24 also closes on August 7th. And whether or not there are  
25 petitions, we'll have to wait and see. And the Commission

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1 will decide whether or not we'll have a hearing.

2           So that is the predominant effect on the  
3 schedule. Anything else with regard to that that we could  
4 answer?

5           MR. SIMARD: No thank you.

6           My second question has to do with the use of  
7 the terms "COL license information" and "COL action  
8 items." These two terms are used to describe the same  
9 thing in the two design control documents, namely they  
10 refer to matters that need to be addressed by an applicant  
11 or by a licensee that references the design certification.  
12 In addition, we note that in the System 80+ design control  
13 document there's an additional term, "COL information  
14 items."

15           We assume that the staff sees no distinction  
16 between these terms. For clarity, would the staff  
17 consider standardizing on the terms used in the respective  
18 design control documents; that is, the use of the phrase  
19 "COL information items" for the System 80+ and the phrase  
20 "COL license information" for the ABWR?

21           PANELIST WILSON: First of all, we don't  
22 distinguish between those terms. And we didn't feel that  
23 the name use was that important. So while GE and CE chose  
24 different terms, that wasn't significant to the NRC.

25           In terms of standardizing, I will say that the

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1 initial term chosen was "COL action items." And I think  
2 that's more descriptive of the situation.

3 As you say, the COL applicant needs to address  
4 each of these items. So there's some sort of action that  
5 they have to take. But the actual term used isn't that  
6 important to us.

7 I do agree that it would be useful if we could  
8 find one term that could apply to everyone.

9 MR. SIMARD: Thank you.

10 My next question has to do with the references  
11 to the use of a 50.59-like process. We note a difference  
12 between the rule language and the supplementary  
13 information. Let me give you the examples.

14 In the rule language, Section 8(b)(5)(i)  
15 states the criterion for Tier 2 changes as follows, "An  
16 applicant or licensee who references the design  
17 certification may depart from Tier 2 information" -- and  
18 here I'm going to emphasize a phrase -- "without prior NRC  
19 approval, unless the change involves a change to Tier 1,  
20 Tier 2\*, the tech specs, or an unreviewed safety  
21 question."

22 Now, by contrast, the language in the  
23 supplementary information seems to establish an additional  
24 criterion when it states that "Tier 2 changes that do not  
25 involve an unreviewed safety question or change to tech

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1 specs, Tier 1, Tier 2\*," et cetera, "can be made without  
2 prior NRC approval" -- and, again, now I'll quote what  
3 seems to be an additional criterion -- "unless the change  
4 involves an issue that the NRC staff has not previously  
5 approved."

6 We assume that the NRC staff did not by that  
7 last phrase intend to establish via these proposed rules  
8 an additional criterion for the 50.59-like process. And  
9 our question is: If this language, that phrase that I  
10 emphasized in the supplementary information, is carried  
11 forth to the statement of considerations for the final  
12 rule, will those words be revised to be consistent with  
13 the proposed rule language in Section 8(b)(5)(i)?

14 PANELIST WILSON: When we were writing that,  
15 we weren't intending to characterize a new criterion or  
16 different criterion, but, rather, what I would say is an  
17 explanation of the existing criteria.

18 I have in this outline here shown the change  
19 process for Tier 1 and Tier 2. The section you're  
20 discussing is down here in the lower right-hand corner, as  
21 you've characterized it correctly.

22 The point I think we were trying to make is  
23 that if a utility that references this certified design  
24 was changing something in Tier 2 and identified a new  
25 issue that wasn't described in Tier 2, then by definition

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1 that's an unreviewed safety question. So that reference  
2 was to the thought that that was an unreviewed safety  
3 question and not a new criterion.

4 Now, it may be that we're miscommunicating on  
5 this. And maybe in your comments you could address this  
6 some more, perhaps with an example. And we can look at  
7 that again and be sure that we're not misstating the  
8 actual interpretation of that guidance.

9 And while we're talking about that, let me  
10 point out that in the change process, not everything is  
11 resolved. We still have some more work to do. And let me  
12 give a few examples that may be helpful to this  
13 discussion.

14 First of all, in design certification we are  
15 resolving a portion of the safety issues associated with a  
16 nuclear power plant, a large portion, but not all of it.  
17 If an applicant for a combined license came in and  
18 referenced this design certification rule, there is some  
19 additional information they have to provide, such as  
20 site-specific design features and things that a utility is  
21 responsible for, procedures. And this gets back to your  
22 COL action items, some of those that were identified as we  
23 did this review.

24 Now, that information when it comes in, there  
25 is going to have to be a related change process for that

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1 information, probably different than the existing change  
2 process for operating plants because it will have to  
3 reflect the certified design information.

4 And so that's the purpose of Question 3 in our  
5 Federal Register notice, is we're seeking comments on how  
6 people think we need to address that information. We  
7 think it's time to start thinking about that.

8 And also within the level of information  
9 that's in Tier 2, there's also an underlying supporting  
10 level of engineering information that was not needed for  
11 the staff to make its safety findings but, in fact, does  
12 exist at the designers.

13 Now, as that information is being created  
14 during the final design and the construction phase,  
15 there's an obligation to be sure that that information  
16 doesn't conflict with the information in the design  
17 control document. So there's that lower level of  
18 information that's not in the change process here, but it  
19 does have to be in conformance with what's been approved  
20 in the design control document.

21 And, finally, one of the provisions that Mr.  
22 Simard mentioned was Tier 2\*. We're also seeking comments  
23 on the change process for Tier 2\*. And that's Question  
24 Number 7.

25 As you look at this, you'll see that there are

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1 provisions here on how to change various information, but  
2 we don't have one on what process you would use if you  
3 want to change Tier 2\*. And we're considering whether to  
4 add that in at the final rule stage. And so that's why  
5 we've asked Question Number 7. That's all I have on that.

6 MR. SIMARD: Thank you. I think you may have  
7 addressed, then, what was going to be my next question  
8 because there is a reference in Section 3 of the rule,  
9 Section 3(h). To help you locate that, it's on the bottom  
10 of Page 17912 of the Federal Register notice, the bottom  
11 of the middle column. And it's a reference to the process  
12 for evaluating proposed tests or experiments not described  
13 in Tier 2 that will be developed for a COL that references  
14 the design certification.

15 I assume this is what you just touched on.  
16 And even though you don't specifically call for public  
17 comment on that in Section 4, I assume that you would like  
18 public comment on how that might be implemented.

19 And if so, can you be more specific with  
20 respect to the process that you characterize as yet to be  
21 developed and the nature of the comment that you're  
22 looking for from the public?

23 PANELIST WILSON: Yes. The question would  
24 also be Question 3, as I said before in response to this.

25 At the time we were writing the provision

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1 8(b)(5), which is the provision you had used if you want  
2 to change Tier 2 information and you made the  
3 determination whether you had to get NRC approval in  
4 advance or not, if you look at the parallel provision in  
5 Part 50.59, it also refers to tests or experiments that  
6 the operator may perform.

7 We deliberated on whether or not we should  
8 include that in the change provision for the design  
9 certification rule or put that in the change provision for  
10 the COL information because it really deals with cations  
11 that the COL applicant or licensee would take.

12 And for the purpose of the proposed rule, we  
13 left it out, but we put this question in there. And we  
14 need to get comments on that.

15 Now, arguably we could have it in either  
16 place. On the one hand, if we kept it in the change  
17 process for the design certification rule, you would have  
18 all of those facets in one process -- and maybe that's the  
19 best way to go -- or you could leave it for the change  
20 process we'll have to develop for the COL information.  
21 And it would apply more directly to procedures and things  
22 that the licensee is performing.

23 As I say, we can go either way on that. And  
24 we'd be interested in your views on that, on which would  
25 be the better place to put it. And that's the point we

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1 were getting at when we mentioned tests and experiments,  
2 that we didn't address it in 8(b)(5), but it needs to be  
3 addressed somewhere.

4 MR. SIMARD: Thank you.

5 My final question has to do with a reference  
6 in Topic 3 in the supplementary information. Exemptions  
7 from Tier 1 or Tier 2 require prior NRC approval, and  
8 they're subject to an opportunity for a hearing. In  
9 Section 2, Topic 3, the proposed rule, there's a statement  
10 that Tier 1 and Tier 2 exemptions "lose issue preclusion."

11 Because exemptions from either tier require  
12 prior NRC approval and an opportunity for public hearing,  
13 presumably resulting in finality of these granted  
14 exemptions, that statement is unclear to us.

15 We interpret it to mean that exemptions have  
16 no issue preclusion only while pending any hearing and NRC  
17 granting of the exemption. Is that interpretation  
18 correct?

19 PANELIST WILSON: I'll ask Mr. Malsch to jump  
20 in on this, but basically I think that once you have  
21 changed the information in the DCB, whatever issue  
22 preclusion is associated with that information is lost.

23 I think that's the view that the Commission  
24 has, that the new information is different than what was  
25 approved and certified in this rulemaking process. And so

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1 whatever issue preclusion associates with that does not  
2 come forward to the new information.

3 Is that reasonable, Marty?

4 MR. SIMARD: And does that state continue even  
5 after the NRC review and action on that exemption and the  
6 granting of it? That state continues even past that point  
7 in time?

8 PANELIST MALSCH: Let me be more precise. I  
9 think what we intended to say was if you grant an  
10 exemption from Tier 1 or Tier 2, then it follows that Tier  
11 1 or Tier 2 no longer apply with respect to the issues  
12 covered by the exemption.

13 What we intended to say then is that the issue  
14 preclusion associated with the rulemaking of Tier 1/Tier 2  
15 would not apply and would never apply unless and until  
16 there were rulemaking to amend Tier 1 and Tier 2 to  
17 incorporate for some provisions of exemption. That would  
18 be true indefinitely.

19 However, there would be -- I'm not sure you  
20 want to call it issue preclusion, but a sort of issue  
21 preclusion associated with whatever process leads to  
22 granting of the exemptions. Whatever that is, that would  
23 be associated with the exemption grant.

24 So, for example, if we granted an exemption  
25 from Tier 2 as a part of a combined licensing proceeding

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1 and the combined license was issued, then whatever issue  
2 preclusion was associated with issues of the combined  
3 licensing proceeding would then also apply to the granting  
4 of that exemption.

5 So when we say issue preclusion would be lost,  
6 what we intended to be saying more precisely was that the  
7 issue preclusion associated more uniquely with a design  
8 certification rulemaking would be lost.

9 PANELIST WILSON: Thank you, Marty.

10 Did that help or --

11 MR. SIMARD: That answered my question. That  
12 is the end of my questions. Thank you for the  
13 opportunity.

14 PANELIST WILSON: Thank you.

15 Do we have other questions or comments  
16 concerning our proposed rules? Yes, please?

17 MR. GUNTER: Thank you. My name is Paul  
18 Gunter, and I'm with Nuclear Information and Resource  
19 Service here in Washington. I guess I'd like some  
20 clarification with regard to the NRC decision to prepare  
21 environmental impact statements on these two designs.

22 There are two areas that I think draw this to  
23 our attention, and we'd be interested in getting your  
24 answer before we prepare comment. One has to do with the  
25 seismic qualification for the ABWR.

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1 Now, I understand that GE's got an ABWR under  
2 construction in Japan. Am I correct on that?

3 PANELIST WILSON: There's a version of the  
4 design that is being certified by this proposed rule  
5 that's being built in Japan, but it's not exactly the  
6 same.

7 MR. GUNTER: Okay. But similar?

8 PANELIST WILSON: Yes.

9 MR. GUNTER: I'm sure a lot of us followed the  
10 Kobe earthquake as well as the Northfield earthquake.  
11 There has been a lot of information with regard to the  
12 surprise that those two earthquakes present in terms of  
13 producing new data that's contrary to what we thought  
14 about a near-field effect of earthquake.

15 So now we're noting that there were effects  
16 from the Kobe earthquake, for example, out to 15 miles  
17 that were significantly challenging, seismically qualified  
18 structures. I think one of them was up to eight on the  
19 Richter. It was qualified up quite high.

20 And that as well as similar findings around  
21 the Northfield earthquake just bring to mind some  
22 questions with regard to why you would -- I read that you  
23 are saying that you're not going to do the environmental  
24 impact statement because it doesn't impact on  
25 construction, but I'm wondering if you could just comment

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1 on how new seismic data might very well affect  
2 environmental impact statements for this new design.

3           PANELIST WILSON: The adequacy of the seismic  
4 design I don't see as an environmental issue. Rather, it  
5 gets into whether or not the plant is safe at a particular  
6 site.

7           Let me point out in a design certification  
8 rulemaking we're approving the design. And in the process  
9 of that, the design is designed to certain sighting  
10 criteria; for example, an acceleration due to an  
11 earthquake. And in the two designs here, they have  
12 assumed certain earthquake acceleration levels in their  
13 designs. And we've approved designs to those levels. Let  
14 me call them not even parameters.

15           If later a utility came forward and wanted to  
16 build the ABWR design, for example, at their site, they  
17 would have to demonstrate that the earthquake  
18 accelerations that they would experience at that site  
19 would be within that bounding level in order for that  
20 particular design to be acceptable at that site.

21           So your questions as to the types of  
22 accelerations that you would experience at a particular  
23 site would be evaluated at that time. And people could  
24 challenge those evaluations at that COL application time.

25           Now, as I say, though, I don't see that as an

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1 environmental issue, but I see that as a site safety  
2 issue. And it would be evaluated at the combined license  
3 stage.

4 MR. GUNTER: So that would be open for  
5 question at that time?

6 PANELIST WILSON: Certainly.

7 MR. GUNTER: Okay.

8 PANELIST WILSON: We are not evaluating any  
9 sites at this stage. We are evaluating the design for use  
10 up to a particular --

11 MR. GUNTER: The bounding level that you're  
12 currently using, is that reference to, say, current  
13 designs or are these new bounding levels that you're  
14 introducing here?

15 PANELIST WILSON: Well, first of all, the  
16 applicant for design certification chooses those site  
17 parameters. In other words, they could choose an  
18 earthquake level that was very high. And, therefore, the  
19 design would be acceptable anywhere in the United States,  
20 but that makes the design expensive, or they could choose  
21 a low seismic level, in which case it wouldn't be suitable  
22 at very many sites.

23 So that's a determination made by the  
24 applicant. And we at NRC ensure that the design is going  
25 to be able to safely function up to those levels.

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1 MR. GUNTER: So that's not in the design  
2 certification at present?

3 PANELIST WILSON: What's in the design  
4 certification is the bounding level so things like  
5 earthquake, tornadoes, all of those site challenges to a  
6 design may have made certain assumptions. And we've  
7 reviewed the design to those assumed site parameters.

8 MR. GUNTER: Okay. I'm sorry to belabor this.  
9 But those assumptions are based out of current data that  
10 was used for, say, the current fleet of reactors?

11 PANELIST WILSON: Not really. As I say, they  
12 make what's practically speaking an economic decision as  
13 to what level they're going to design to.

14 The issue you're getting at is as to the  
15 adequacy of predicting what type of earthquake you're  
16 going to experience at a site. That's a question that  
17 will be assessed at the combined license stage when we  
18 have a site to evaluate and then compare it to the design  
19 assumptions made for that particular design.

20 MR. GUNTER: Okay. Again, maybe this is not  
21 an EIS issue, but I understand that the models themselves  
22 are incomplete or not completely considered in terms of  
23 such issues as acts of terrorism.

24 I'm wondering. I think that raises a level of  
25 concern for us in these destabilizing political times in

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1 terms of: Is that, in fact, an area that should be  
2 considered in an environmental impact statement?

3 PANELIST WILSON: We do do reviews with what  
4 we refer to as safeguards looking at the ability of the  
5 plant to be protected against acts of terrorism. And to a  
6 certain extent, some of that information you'll see in the  
7 design control documents in back. But, as you might  
8 understand, other aspects of that information are not made  
9 publicly available. And so we really can't discuss that  
10 in any detail.

11 But we do look at acts of terrorism. And the  
12 NRC periodically reassesses our criteria in that regard  
13 based on what's happening around the world.

14 MR. GUNTER: But, again, that's not going to  
15 be -- that wouldn't be part of a consideration for an  
16 environmental impact statement?

17 PANELIST WILSON: No. That's part of our  
18 safety review acceptability of that plant.

19 PANELIST MALSCH: Let me add something. The  
20 theory here behind not issuing an environmental impact  
21 statement with the design certification is essentially  
22 that the design certification itself, the issuance of the  
23 certification, the rulemaking, doesn't itself have an  
24 environmental impact. What has an environmental impact  
25 would be the construction and operation of the plant which

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1 references it.

2           And so we have understood from the beginning  
3 that if one were to reference a certified design, let's  
4 say in a combined license application, then it would be a  
5 full environmental impact statement written at that time  
6 associated with the federal action of issuing the combined  
7 license.

8           And so whatever would be the scope of an  
9 environmental impact statement for a combined license  
10 application would be essentially with one exception  
11 unaffected by the issuance of this rule. The exception is  
12 issues discussed in the appraisal associated with this  
13 rule. And that's a feedback, or feed forward maybe, on  
14 accident design mitigational terms.

15           But, by and large, as we see it, the  
16 environmental impact statement associated with the  
17 combined license issuance would be the kind of thing we  
18 have traditionally issued in the past for construction  
19 permits and operating license.

20           I think we have in the past in those EIS's  
21 included a discussion of severe accident impacts,  
22 including at least a qualitative discussion of terrorist  
23 attacks. Assuming that would be the policy that the  
24 Commission would follow in the future if an application is  
25 filed referencing one of these things, I think you'd see

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1 the kind of discussion of terrorism in the EIS that we've  
2 traditionally included in the EIS.

3 PANELIST CRUTCHFIELD: To address both your  
4 issues, relative to new data that becomes available, what  
5 we will do is evaluate that data. We'll see if it's an  
6 adequate protection question or whether it's a question of  
7 whether they meet the underlying basis for the regulation.

8 And if either of those challenges comes up  
9 with a yes answer that it is an adequate protection  
10 question, that certainly would be a basis for reopening  
11 the rulemaking that will be taking place on both of these  
12 designs.

13 But that's a safety question. It's not an  
14 environmental question typically.

15 MR. GUNTER: I guess if you could just give me  
16 a little bit of clarification on this restricted change  
17 process that you're talking about in terms of how that  
18 might affect safety or not affect safety or environmental  
19 issues?

20 PANELIST WILSON: Well, the change process we  
21 have, as I said, resolved a large number of safety issues  
22 associated with these designs in this review. And the  
23 Commission wanted to preserve those resolutions and  
24 achieve benefits of standardization. So what they did is  
25 they established higher backfit standards than you would

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1 normally see for plants licensed pursuant to Part 50.

2           And so when I say it's a restrictive change  
3 standard, the standard that you have to meet in order to  
4 be able to make a change to your design is more difficult.  
5 And we're doing that to try to restrict changes.

6           Once we have gone to this effort to approve  
7 these designs, someone references them, we want them to  
8 complete the design and build the plant in accordance with  
9 the resolutions that we have achieved now.

10           MR. GUNTER: Now, would that include also like  
11 the 50.59 process once the operation license is granted or  
12 --

13           PANELIST WILSON: With regard to that, -- and  
14 we were discussing that earlier -- for the portion of the  
15 design information that's in the design control document,  
16 you wouldn't use the 50.59 process.

17           You would use this process that's in our  
18 proposed rule, specifically 8(b)(5). And you'll see it's  
19 similar to 50.59 but has different features to it because  
20 of the aspects of a 2-tiered design certification rule.

21           MR. GUNTER: Could you give me just a quick  
22 rundown on what those differences are, how significant  
23 they are?

24           PANELIST WILSON: Well, in an existing 50.59,  
25 basically it says you can change information in a safety

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1 analysis report provided it doesn't constitute an  
2 unreviewed safety question or change technical  
3 specifications. That's sort of a standard. And this one  
4 I've outlined here.

5 It says that the Tier 2 information, which is  
6 basically equivalent to what you would see in a safety  
7 analysis report for an operating plant, although more  
8 issues addressed, more detail. It says that you can  
9 change that without seeking prior NRC approval provided  
10 you don't change the Tier 1 information, which is very  
11 high-level information.

12 MR. GUNTER: Which would include reviewed  
13 safety issues?

14 PANELIST WILSON: Well, all of the safety  
15 issues that are reviewed in the resolution are described  
16 in what we call Tier 2, but beyond that we wanted to have  
17 a higher level of information that was even more difficult  
18 to change, one way of looking at it. And so we have  
19 extracted from that safety analysis key design features  
20 that we don't want.

21 There's a fundamental basis for the approval  
22 of the design, and we don't want those changed. And so  
23 they have a higher-level change standard.

24 So what this is basically saying is that if  
25 you're changing Tier 2, be sure you're not affecting Tier

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1 1. If you are, you have a different change process you  
2 have to come in under.

3 And then tech specs is in there also, as  
4 before.

5 MR. GUNTER: So would you characterize that  
6 process as more or less restrictive?

7 PANELIST WILSON: I see it as more restrictive  
8 in the current 50.59 because there are other checks you  
9 have to make. There's less information, I would guess,  
10 that can be changed without prior NRC approval under this  
11 process than you would see in a 50.59 process.

12 Is that reasonable?

13 PANELIST MALSCH: Well, although I just said  
14 that that sort of supposes under the existing 50.59 there  
15 were such a thing as Tier 1 one could change without  
16 presenting an unreviewed safety question, which is a sort  
17 of philosophical question. I'm not sure I know precisely  
18 what the answer is.

19 If you had such a thing as a Tier for an  
20 existing suite of operating licenses, I would guess that  
21 it is likely that many of the changes to that hypothetical  
22 Tier 1 would present unreviewed safety questions, in which  
23 case the change process for here is more or less  
24 equivalent.

25 On its face it appears to be more restrictive.

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1 PANELIST WILSON: Was that helpful?

2 MR. GUNTER: Thanks.

3 PANELIST WILSON: Thank you.

4 Other statements or questions concerning our  
5 proposed rules? Last chance.

6 (No response.)

7 PANELIST WILSON: Seeing none, I thank you for  
8 coming out, remind you that we have the design control  
9 documents in the back. And we have copies of the  
10 environmental assessments and our proposed rules in front.  
11 You're please welcome to come and look at them or take  
12 copies that we have in front.

13 Thank you all for coming. And that is the end  
14 of the meeting.

15 (Whereupon, the foregoing matter was concluded  
16 at 9:43 a.m.)

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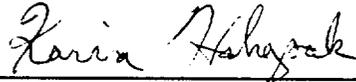
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