



# **RULEMAKING ISSUE**

(NEGATIVE CONSENT)

November 16, 1998

SECY-98-267

FOR: The Commissioners

FROM: William D. Travers  
Executive Director for Operations

SUBJECT: RULEMAKING PLAN FOR THE AP600

## PURPOSE:

To obtain the Commission's approval to proceed with rulemaking for the AP600 standard design certification in accordance with the attached rulemaking plan.

## BACKGROUND:

Westinghouse Electric Company submitted an application for certification of its AP600 standard design on June 26, 1992. The NRC staff issued a final design approval to Westinghouse on September 3, 1998, that signified completion of the technical review phase and readiness for the rulemaking phase of the AP600 design certification application.

## DISCUSSION:

This rulemaking will be performed under 10 CFR 52.51, and the AP600 design certification rule will be nearly identical to the previous design certification rules (Appendices A and B to 10 CFR Part 52). The attached rulemaking plan took into consideration the extensive communications between the NRC staff, the nuclear industry, and the Department of Energy on the previous design certification rulemakings.

## COORDINATION:

This plan was concurred in by the Office of Nuclear Reactor Regulation, the Office of Nuclear Regulatory Research, and the Office of Enforcement. The Office of the General Counsel has reviewed this plan and has no legal objections to its content. The Chief Financial Officer has reviewed this plan for resource implications and has no objections to its content. The Chief

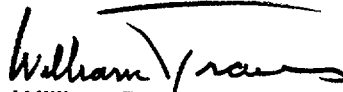
## CONTACT:

Jerry N. Wilson, NRR  
415-3145

Information Officer has reviewed this plan for information technology and information management implications and concurs in it. However, the plan suggests changes in information collection requirements that may require submission to the Office of Management and Budget at the same time the rule is forwarded to the *Federal Register* for publication.

RECOMMENDATION:

That the Commission approve the staff plans to proceed with the AP600 rulemaking. Staff requests action within 10 days. Action will not be taken until the SRM is issued. We consider this action to be within the delegated authority of the Executive Director for Operations.



William D. Travers  
Executive Director  
for Operations

Attachment: AP600 Rulemaking Plan

SECY NOTE: In the absence of instructions to the contrary, SECY will notify the staff on Thursday, December 3, 1998 that the Commission, by negative consent, assents to the action proposed in this paper.

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# RULEMAKING PLAN FOR THE AP600

Rulemaking #504  
Appendix C to 10 CFR Part 52

## **Regulatory Issue**

Certification of the AP600 standard design [WITS #92000142D]. Westinghouse Electric Company submitted its application for certification on June 26, 1992.

## **Existing Regulatory Framework**

The existing regulations [Subpart B of 10 CFR Part 52] set forth a process for certifying standard plant designs under Section 52.51.

## **Regulatory Analysis**

Design certifications are not generic rulemakings in the sense that design certifications do not establish standards or requirements with which all licensees must comply. Rather, design certifications are Commission approvals of specific nuclear power plant designs by rulemaking. Furthermore, design certification rulemakings are initiated by an applicant. Therefore, preparation of a backfit, cost-benefit, or regulatory analysis is neither required nor appropriate because the design to be certified is proposed by an applicant rather than the NRC.

## **Legal Analysis**

The Commission has the authority to certify standard plant designs under the authority of the Atomic Energy Act of 1954, as amended, and Subpart B of 10 CFR Part 52. The Commission previously certified two evolutionary designs in 1997 without legal objection, and therefore, no legal objections are anticipated in this rulemaking.

## **Category of Rule**

The Commission expects that the use of standard designs will result in safety enhancements. Design certifications are considered to be product endorsements and, therefore, are not a major rule as defined by the Office of Management and Budget (OMB).

## **Supporting Documents**

Westinghouse must prepare a Design Control Document that contains two tiers of design-related information on the AP600 standard plant and must meet the Office of the Federal Register requirements for incorporation by reference. An OMB clearance package will be prepared for this rulemaking.

## **Issuance by the Executive Director for Operations or the Commission**

This rulemaking will be issued by the Commission.

Attachment

### **Interoffice Management Steering Group**

An interoffice steering group was used in the comment resolution phase for the two evolutionary design certification rules. Because this design certification rule will be nearly identical to the previous rules, a new steering group is not needed.

### **Public/Industry Participation**

There was significant industry participation in the comment phase for the two evolutionary design certification rules, but minimal public participation. This design certification rule will be nearly identical to the design certification rules issued in 1997.

### **Resources**

NRR Lead:	Jerry N. Wilson, Senior Policy Analyst Division of Reactor Program Management
NRR Support:	All NRR Divisions must review the Design Control Document
OGC Contact:	Geary Mizuno or Stuart Treby
Other Contact:	Christopher Grimes, Director License Renewal Project Directorate Division of Reactor Program Management

The necessary resources from the NRR staff are included in Section I.K of the Operating Plan. Support from OGC is also required.

### **Schedule**

Proposed Rule to the EDO: Three months after the Design Control Document is approved

Final Rule to EDO: Seven months after the Proposed Rule is issued

This schedule does not include time for public meetings or workshops because the AP600 design certification rule will be nearly identical to the previous rules on which several public meetings were held. The OMB clearance package will be submitted to OMB at the same time that the proposed rule is forwarded to the Federal Register for publication. This schedule was discussed with a Westinghouse representative and is consistent with their expectations.