



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

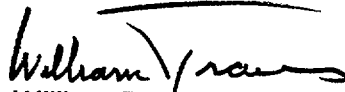
CONTACT:

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.