



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

March 11, 2005

SECRETARY

COMMISSION VOTING RECORD

DECISION ITEM: SECY-05-0017

TITLE: PROPOSED RULE – AP1000 DESIGN CERTIFICATION

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of March 11, 2005.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commission.

A handwritten signature in black ink, appearing to read "Annette L. Viëtti-Cook", written over a horizontal line.

Annette L. Viëtti-Cook  
Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Diaz  
Commissioner McGaffigan  
Commissioner Merrifield  
Commissioner Jaczko  
Commissioner Lyons  
OGC  
EDO  
PDR

VOTING SUMMARY - SECY-05-0017

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. DIAZ	X				X	2/10/05
COMR. McGAFFIGAN	X				X	2/25/05
COMR. MERRIFIELD	X				X	2/14/05
COMR. JACZKO	X				X	3/4/05
COMR. LYONS	X				X	2/19/05

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and provided some additional comments. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on March 11, 2005.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: CHAIRMAN DIAZ  
SUBJECT: SECY-05-0017 - PROPOSED RULE - AP1000 DESIGN  
CERTIFICATION

w/comments

Approved xx *w/* Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS:

See attached comments.

*Christina Diaz*  
\_\_\_\_\_  
SIGNATURE

*Feb 10, 05*  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes  No \_\_\_\_\_

Chairman Diaz's Comments on SECY-05-0017

I approve issuance of the draft rule for public comment and the recommendations contained in SECY-05-0017, "Proposed Rule - AP1000 Design Certification" subject to the to the following revisions;

- The statement, "The NRC is considering whether to create a definition using this explanation for the purposes of using paragraph B.5.c," should be removed from page 29 of the statement of consideration. Paragraph B.5.c has been included in prior design certifications and is well understood. At this time it is unnecessary to create a new definition.
- The statement, "Finally, the Commission concludes that the AP1000 design would not exclude severe accident mitigation design alternatives for a future facility that would prove cost beneficial had they been considered as part of the original design certification application." should be removed from page 42 of the statement of consideration. This statement is ambiguous and unnecessary.
- The Section 4.0 of the environmental assessment, "Alternatives to the Proposed Action," should be updated to reflect the fact that final design approval was granted in September of 2004 and not approving the design is no longer an alternative.
- The units for frequency on page 27 of the Environmental Assessment should be corrected.
- The note in both the statement of consideration and the environmental assessment related to access to ADAMS being temporarily suspended should be updated to reflect the current status of public access to ADAMS.
- The attached editorial corrections should be made.

achieve the Commission's goals for design certification, the evaluation would need to consider all of the matters that were resolved in the DCD, such as generic issue resolutions that are relevant to the proposed departure. The benefits of the early resolution of safety issues would be lost if departures from the DCD were made that violated these resolutions without appropriate review.

The evaluation of the relevant matters would need to consider the proposed departure over the full range of power operation from startup to shutdown, as it relates to anticipated operational occurrences, transients, design-basis accidents, and severe accidents. The evaluation would also have to include a review of all relevant secondary references from the DCD because Tier 2 information, which is intended to be treated as a requirement, would be contained in the secondary references. The evaluation would consider Tables 14.3-1 through 14.3-8 and 19.59-18 of the generic DCD to ensure that the proposed change does not impact Tier 1 information. These tables contain cross-references from the safety analyses and probabilistic risk assessment in Tier 2 to the important parameters that were included in Tier 1. Although many issues and analyses could have been cross-referenced, the listings in these tables were developed only for key analyses for the AP1000 design.

A party to an adjudicatory proceeding (e.g., for issuance of a COL) who believes that an applicant or licensee has not complied with paragraph VIII.B.5 when departing from Tier 2 information, would be permitted <sup>to</sup> petition to admit such a contention into the proceeding under paragraph B.5.f. This provision has been proposed because an incorrect departure from the requirements of this appendix essentially would place the departure outside of the scope of the Commission's safety finding in the design certification rulemaking. Therefore, it follows that properly founded contentions alleging such incorrectly implemented departures could not be considered "resolved" by this rulemaking. As set forth in paragraph B.5.f, the petition would have to comply with the requirements of 10 CFR 2.309 and show that the departure does not

UNITED STATES NUCLEAR REGULATORY COMMISSION  
ENVIRONMENTAL ASSESSMENT AND FINDING OF  
NO SIGNIFICANT IMPACT  
RELATING TO THE CERTIFICATION OF THE  
AP1000 STANDARD PLANT DESIGN  
DOCKET NO. 52-006

The U.S. Nuclear Regulatory Commission (NRC) has issued a design certification for the Advanced Passive 1000 (AP1000) design in response to an application submitted on March 28, 2002, by Westinghouse Electric Company LLC (hereinafter referred to as Westinghouse). A design certification is a rulemaking that amends 10 CFR Part 52.

The NRC has performed an environmental assessment (EA) of the environmental impacts of the proposed new rule and has documented its findings of no significant impact in accordance with the requirements of 10 CFR 51.21 and the National Environmental Policy Act of 1969 (NEPA), as amended. This EA also addresses the severe accident mitigation design alternatives (SAMDA)s, that the NRC has ~~to~~ considered as part of this EA for the AP1000 design. This EA does not address the site-specific environmental impacts of constructing and operating a facility, that references the AP1000 design certification; such impacts will be evaluated as part of any application or applications for the siting, construction, or operation of a facility.

As discussed in detail in Section 4.0 of this EA, the NRC determined that issuing this design certification does not constitute a major Federal action significantly affecting the quality of the human environment. The basis for this finding of no significant impact is that the design certification would not authorize the siting, construction, or operation of a facility of an AP1000 reactor design. Rather, the certification would merely codify the AP1000 design in a rule that

5. Active high pressure safety injection system (HPSI): A safety-related active HPSI system could be added that would be capable of preventing a core melt for all events except the large-break LOCA and ATWS. Note, however, that this design alternative is not consistent with the AP1000 design objectives. The AP1000 would change from a plant with passive systems to a plant with passive and active systems.
6. Steam generator (SG) shell-side heat removal system: This design alternative would involve the installation of a passive safety-related heat removal system to the secondary side of the SGs. This enhancement would provide closed-loop secondary-system cooling by means of natural circulation and stored water cooling, thereby preventing the loss of the primary heat sink given the loss of startup feedwater (SFW) and the passive RHR heat exchanger (HX).
7. Direct steam generator relief flow to the IRWST: To prevent fission product release from bypassing containment during an steam generator tube rupture (SGTR) event (or to reduce the amount released), flow from the SG safety and relief valves could be directed to the IRWST. An alternative, lower cost option would be to redirect flow only from the first-stage safety valve to the IRWST.
8. Increased steam generator pressure capability: As an alternative to design alternative (7) above, another method could be used to prevent fission product release from bypassing containment during an SGTR event (or to reduce the amount). This alternative method would involve an increase of the SG secondary-side and safety valve setpoint to a level high enough to not allow an SGTR to cause the secondary-system safety valve to open. Although detailed analyses have not been performed, it is estimated that the secondary-side design pressure would have to be increased by several hundred pounds per square inch (psi).
 

*pressure capability*  
*Pressure*

NOTATION VOTE

RESPONSE SHEET

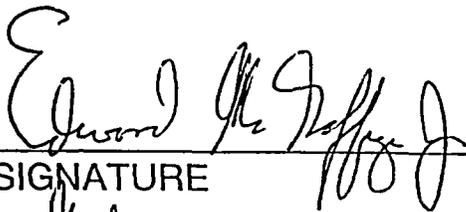
TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER MCGAFFIGAN  
SUBJECT: **SECY-05-0017 - PROPOSED RULE - AP1000 DESIGN  
CERTIFICATION**

Approved  Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS:

See attached comments.

  
\_\_\_\_\_  
SIGNATURE  
Feb 25, 2005  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes  No \_\_\_\_\_

Commissioner McGaffigan's Comments on SECY-05-0017

I approve issuance of the draft rule for public comment and the recommendations contained in SECY-05-0017, "Proposed Rule - AP1000 Design Certification," subject to the to the revisions proposed by Chairman Diaz and my fellow Commissioners. Additionally, I join with Commissioner Merrifield in suggesting to the staff that, should the semi-annual reporting requirement during the construction and application review be determined to be sufficient for the AP1000 design, corresponding changes should be made to Part 52.

EAB

NOTATION VOTE

RESPONSE SHEET

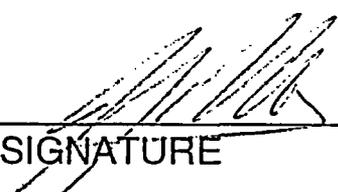
TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER MERRIFIELD  
SUBJECT: **SECY-05-0017 - PROPOSED RULE - AP1000 DESIGN  
CERTIFICATION**

Approved  Disapproved  Abstain

Not Participating

COMMENTS:

*See attached comments.*

  
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SIGNATURE

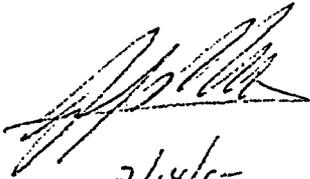
*3/14/05*  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes  No

Commissioner Merrifield's Comments on SECY-05-0017

I agree with the comments made by Chairman Diaz, and I approve issuing SECY-05-0017, Proposed Rule - AP1000 Design Certification, for public comment, subject to the attached editorial comments.

In addition, the proposed rule states that reports describing departures from the design basis document (required by paragraph X.B.1) should be submitted semi-annually rather than annually during the period of construction and application review. This proposal is a change from the design certifications for ABWR, System 80+, and AP600 approved by the Commission in Appendices A, B, and C of 10 CFR Part 52. The previously approved design certifications require quarterly reporting during the construction and application review periods. If the semi-annual reporting requirement is determined to be sufficient for the AP1000 design, the staff should consider revising the quarterly reporting requirements in Part 52, Appendices A, B, and C, as part of the ongoing effort to update and correct the licensing processes in Part 52.



2/14/05

A definition of "combined license action items" (COL information), which is part of the Tier 2 information, would be added to clarify that COL applicants who reference this appendix are required to address COL action items in their license application. However, the COL action items are not the only acceptable set of information. An applicant may depart from or omit COL action items, provided that the departure or omission is identified and justified in the FSAR. After issuance of a construction permit or COL, these items would not be requirements for the licensee unless they are restated in the FSAR. For additional discussion, see Section D.

The investment protection short-term availability controls, which are set forth in Section 16.3 of the generic DCD, would be added to the information that is part of Tier 2. These requirements were added to Tier 2 to make it clear that the availability controls are not operational requirements for the purposes of paragraph VIII.C of this appendix. Rather, the availability controls are associated with specific design features. The availability controls may be changed if the associated design feature is changed under paragraph VIII.B of this appendix. For additional discussion, see Section C.

Certain Tier 2 information has been designated in the generic DCD with brackets and italicized text as "Tier 2\*" information and, as discussed in greater detail in the section-by-section explanation for Section H, a plant-specific departure from Tier 2\* information would require prior NRC approval. However, the Tier 2\* designation expires for some of this information when the facility first achieves full power after the finding required by 10 CFR 52.103(g). The process for changing Tier 2\* information and the time at which its status as Tier 2\* expires <sup>are</sup> ~~is~~ set forth in paragraph VIII.B.6 of this appendix. Some Tier 2\* requirements concerning special preoperational tests are designated to be performed only for the first plant or first three plants referencing the AP1000 DCR. The Tier 2\* designation for these selected tests would expire after the first plant or first three plants complete the specified tests. However, a COL action item requires that subsequent plants shall also perform the tests or justify that the results of the first-plant-only or first-three-plants-only tests are applicable to the subsequent

plant.

In an earlier rulemaking (64 FR 53582; October 4, 1999), the Commission revised 10 CFR 50.59 to incorporate new thresholds for permitting changes to a plant as described in the FSAR without NRC approval. For consistency and clarity, the Commission proposes to use these new thresholds in the proposed AP1000 DCR. Inasmuch as § 50.59 is the primary change mechanism for operating nuclear plants, the Commission believes that future plants referencing the AP1000 DCR should utilize thresholds as close to § 50.59 as is practicable and appropriate. Because of some differences in how the change control requirements are structured in the DCRs, certain definitions contained in § 50.59 are not applicable to 10 CFR Part 52 and are not being included in this proposed rule. One definition that the Commission is including <sup>is</sup> ~~is~~ the definition from the new § 50.59 for a "departure from a method of evaluation," (paragraph II.G), which is appropriate to include in this rulemaking so that the eight criterion in paragraph VIII.B.5.b of the proposed rule will be implemented as intended. X

### C. Scope and Contents

The purpose of Section III of this DCR would be to describe and define the scope and contents of this design certification and to set forth how documentation discrepancies or inconsistencies are to be resolved. Paragraph A is the required statement of the Office of the Federal Register (OFR) for approval of the incorporation by reference of Tier 1, Tier 2, and the generic TS into this appendix. Paragraph B requires COL applicants and licensees to comply with the requirements of this appendix. The legal effect of incorporation by reference is that the incorporated material has the same legal status as if it were published in the *Code of Federal Regulations*. This material, like any other properly-issued regulation, has the force and effect of law. Tier 1 and Tier 2 information, as well as the generic TS, have been combined into a single document called the generic DCD, in order to effectively control this information and facilitate its incorporation by reference into the rule. The generic DCD was prepared to meet the requirements of the OFR for incorporation by reference (10 CFR Part 51). One of the

The Commission believes that the resolution of severe accident issues should be preserved and maintain<sup>ed</sup> in the same fashion as all other safety issues that were resolved during the design certification review (refer to SRM on SECY-90-377). However, because of the increased uncertainty in severe accident issue resolutions, the Commission has proposed separate criteria in paragraph B.5.c for determining if a departure from information that resolves severe accident issues would require a license amendment. For purposes of applying the special criteria in paragraph B.5.c, severe accident resolutions would be limited to design features when the intended function of the design feature is relied upon to resolve postulated accidents when the reactor core has melted and exited the reactor vessel, and the containment is being challenged. The NRC is considering whether to create a definition using this explanation for purposes of using paragraph B.5.c. These design features are identified in Section 1.9.5 and Appendix 19B of the DCD, with other issues, and are described in other sections of the DCD. Therefore, the location of design information in the DCD is not important to the application of this special procedure for severe accident issues. However, the special procedure in paragraph B.5.c would not apply to design features that resolve so-called "beyond design basis accidents" or other low probability events. The important aspect of this special procedure is that it would be limited to severe accident design features, as defined above. Some design features may have intended functions to meet "design basis" requirements and to resolve "severe accidents." If these design features are reviewed under paragraph VIII.B.5, then the appropriate criteria from either paragraphs B.5.b or B.5.c would be selected depending upon the function being changed.

An applicant or licensee that plans to depart from Tier 2 information, under paragraph VIII.B.5, would be required to prepare an evaluation which provides the bases for the determination that the proposed change does not require a license amendment or involve a change to Tier 1 or Tier 2\* information, or a change to the TS, as explained above. In order to

learned from subsequent operating experience during its licensing review of the plant-specific TS. The process for petitioning to intervene on a TS or operational requirement would be similar to other issues in a licensing hearing, except that the petitioner must also demonstrate why special circumstances are present (paragraph VIII.C.5).

Finally, the generic TS would have no further effect on the plant-specific TS after the issuance of a license that references this appendix. The bases for the generic TS would be controlled by the change process in paragraph VIII.C of this appendix. After a license is issued, the bases would be controlled by the bases change provision set forth in the administrative controls section of the plant-specific TS.

#### I. Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC)

The purpose of Section IX of this appendix would be to set forth how the ITAAC in Tier 1 of this design certification rule would ~~be~~ be treated in a license proceeding. Paragraph A would restate the responsibilities of an applicant or licensee for performing and successfully completing ITAAC, and notifying the NRC of such completion. Paragraph A.1 would clarify that an applicant may proceed at its own risk with design and procurement activities subject to ITAAC, and that a licensee may proceed at its own risk with design, procurement, construction, and preoperational testing activities subject to an ITAAC, even though the NRC may not have found that any particular ITAAC has been successfully completed. Paragraph A.2 would require the licensee to notify the NRC that the required inspections, tests, and analyses in the ITAAC have been completed and that the acceptance criteria have been met.

Paragraphs B.1 and B.2 would reiterate the NRC's responsibilities with respect to ITAAC as set forth in 10 CFR 52.99 and 52.103(g)<sup>1</sup>. Finally, paragraph B.3 would state that ITAAC do

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<sup>1</sup> For discussion of the verification of ITAAC, see SECY-00-0092, "Combined License Review Process," dated April 20, 2000.

Note: Public access to documents, including access via ADAMS and the PDR, has been temporarily suspended, so that security reviews of publicly available documents may be performed and potentially sensitive information removed. However, access to the documents identified in this rule continues to be available through the rulemaking web site at <http://ruleforum.llnl.gov>, which was not affected by the ADAMS shutdown. Please check with the listed NRC contact concerning any issues related to document availability.

Document	PDR	Web	ADAMS
AP1000 Design Certification Proposed Rule SECY paper	x	x	ML043230006
AP1000 Environmental Assessment	x	x	ML043230023
AP1000 Design Control Document	x	.....	
NUREG-1793, "AP1000 Final Safety Evaluation Report"	x	.....	
SECY-99-268, "Final Rule- AP600 Design Certification"	x	.....	ML003708259
Regulatory History of Design Certification <sup>2</sup>	x	.....	ML003761550

ADD  
ADAN  
NUMB

### V. PLAIN LANGUAGE

The Presidential memorandum entitled "Plain Language in Government Writing" (63 FR 31883; June 10, 1998), directed that the Government's writing be in plain language. The NRC requests comments on the proposed rule specifically with respect to the clarity and effectiveness of the language used. Comments should be <sup>submitted</sup> ~~sent~~ using one of the methods detailed under the ADDRESSES heading of the preamble to this proposed rule.

Y

<sup>2</sup> The regulatory history of the NRC's design certification reviews is a package of 100 documents that is available in NRC's (PERR) and in the PDR. This history spans a 15-year period during which the NRC simultaneously developed the regulatory standards for reviewing these designs and the form and content of the rules that certified the designs.

In addition, as part of the environmental assessment for the AP1000 design, the NRC reviewed Westinghouse's evaluation of various design alternatives to prevent and mitigate severe accidents in Appendix 1B of the AP1000 DCD Tier 2. Based upon review of Westinghouse's evaluation, the Commission finds that: (1) Westinghouse identified a reasonably complete set of potential design alternatives to prevent and mitigate severe accidents for the AP1000 design; (2) none of the potential design alternatives are justified on the basis of cost-benefit considerations; and (3) it is unlikely that other design changes would be identified and justified in the future on the basis of cost-benefit considerations, because the estimated core damage frequencies for the AP1000 are very low on an absolute scale. Finally, the Commission concludes that the AP1000 design would not exclude severe accident mitigation design alternatives for a future facility that would prove cost beneficial had they been considered as part of the original design certification application. These issues are considered resolved for the AP1000 design.

The environmental assessment (EA), upon which the Commission's finding of no significant impact is based, and the AP1000 DCD are available for examination and copying at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The NRC has sent a copy of the EA and this proposed rule to every State Liaison Officer and request<sup>s</sup> their comments on the EA. Single copies of the EA are also available from Lauren M. Quinones-Navarro, Mailstop O-4D9A, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

#### VIII. PAPERWORK REDUCTION ACT STATEMENT

This proposed rule contains amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq). This rule has been

(12) Polar Crane Parked Orientation.

(13) Piping design acceptance criteria.

(14) Containment Vessel Design Parameters.

d. Departures from Tier 2\* information that are made under paragraph B.6 of this section do not require an exemption from this appendix.

C. Operational requirements.

1. Generic changes to generic TS and other operational requirements that were completely reviewed and approved in the design certification rulemaking and do not require a change to a design feature in the generic DCD are governed by the requirements in 10 CFR 50.109. Generic changes that ~~do~~ require a change to a design feature in the generic DCD are governed by the requirements in paragraphs A or B of this section.

2. Generic changes to generic TS and other operational requirements are applicable to all applicants or licensees who reference this appendix, except those for which the change has been rendered technically irrelevant by action taken under paragraphs C.3 or C.4 of this section.

3. The Commission may require plant-specific departures on generic TS and other operational requirements that were completely reviewed and approved, provided a change to a design feature in the generic DCD is not required and special circumstances as defined in 10 CFR 2.335 are present. The Commission may modify or supplement generic TS and other operational requirements that were not completely reviewed and approved or require additional TS and other operational requirements on a plant-specific basis, provided a change to a design feature in the generic DCD is not required.

4. An applicant who references this appendix may request an exemption from the generic TS or other operational requirements. The Commission may grant such a request only if it determines that the exemption will comply with the requirements of 10 CFR 50.12(a). The

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER JACZKO  
SUBJECT: **SECY-05-0017 - PROPOSED RULE - AP1000 DESIGN  
CERTIFICATION**

Approved  Disapproved  Abstain

Not Participating

COMMENTS:

*see additional comments.*

*Angela Caggiano for C&J*  
\_\_\_\_\_  
SIGNATURE

*3/4/05*  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes  No

**Commissioner Jaczko's Vote on SECY-05-0017**  
**Proposed Rule - AP1000 Design Certification**

I approve issuing SECY-05-0017, Proposed Rule - AP1000 Design Certification, for public comment, subject to the edits and comments of Chairman Diaz and Commissioner Merrifield, and the additional comments below.

In our post 9/11 environment, security issues have taken on a new level of importance and the NRC has, and is continuing, to appropriately devote a lot of time, energy and resources on the security front. Therefore, I believe it is consistent and crucial to continue, and even increase this focus in our review of new reactor designs. A decision was made not to focus some of these issues here, but from a safety and security perspective, I believe that, in the future, we should make every effort to fully understand and capitalize on the strengths of the new reactor designs. Thus, I look forward to working on this important issue in another venue.

Finally, because this is a rulemaking effort and this proposed rule presents the only meaningful opportunity for public participation in the process, I encourage the Staff here, and in the future, to use "plain english" wherever possible. The more the public is able to understand and meaningfully participate in NRC's rulemaking efforts, the greater the degree of public confidence in our final product.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER LYONS  
SUBJECT: SECY-05-0017 - PROPOSED RULE - AP1000 DESIGN  
CERTIFICATION

Approved XX <sup>gt</sup> Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_  
Not Participating \_\_\_\_\_

COMMENTS:

Approved with comments and edits. *Also, concern with edits of  
Chairman + Commissioner Merifield (with exception of  
his page 10 edit).*

*Peterlyn*  
\_\_\_\_\_  
SIGNATURE

*2/19/05*  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes  No \_\_\_\_\_

**Commissioner Lyons' Vote on SECY-05-0017  
PROPOSED RULE - AP1000 DESIGN CERTIFICATION**

I approve the issuance of the draft rule for public comment and the staff recommendations contained in SECY-05-0017 and concur with the comments of the Chairman and Commissioner Merrifield subject to the following revisions:

- The rule language for Appendix D, section VIII.6.c(4) (page 59) should be modified to identify the specific AISI standard being referenced.
- The attached editorial changes should be made.

plant.

In an earlier rulemaking (64 FR 53582; October 4, 1999), the Commission revised 10 CFR 50.59 to incorporate new thresholds for permitting changes to a plant as described in the FSAR without NRC approval. For consistency and clarity, the Commission proposes to use these new thresholds in the proposed AP1000 DCR. Inasmuch as § 50.59 is the primary change mechanism for operating nuclear plants, the Commission believes that future plants referencing the AP1000 DCR should utilize thresholds as close to § 50.59 as is practicable and appropriate. Because of some differences in how the change control requirements are structured in the DCRs, certain definitions contained in § 50.59 are not applicable to 10 CFR Part 52 and are not being included in this proposed rule. One definition that the Commission is including in the definition from the new § 50.59 for a "departure from a method of evaluation," (paragraph II.G), which is appropriate to include in this rulemaking so that the eight criterion<sup>a</sup> in paragraph VIII.B.5.b of the proposed rule will be implemented as intended.

#### C. Scope and Contents

The purpose of Section III of this DCR would be to describe and define the scope and contents of this design certification and to set forth how documentation discrepancies or inconsistencies are to be resolved. Paragraph A is the required statement of the Office of the Federal Register (OFR) for approval of the incorporation by reference of Tier 1, Tier 2, and the generic TS into this appendix. Paragraph B requires COL applicants and licensees to comply with the requirements of this appendix. The legal effect of incorporation by reference is that the incorporated material has the same legal status as if it were published in the *Code of Federal Regulations*. This material, like any other properly-issued regulation, has the force and effect of law. Tier 1 and Tier 2 information, as well as the generic TS, have been combined into a single document called the generic DCD, in order to effectively control this information and facilitate its incorporation by reference into the rule. The generic DCD was prepared to meet the requirements of the OFR for incorporation by reference (10 CFR Part 51). One of the

of the plant-specific DCD (required by proposed paragraph IV.A of this appendix). Therefore, this rule would not require that duplicate documentation be maintained by an applicant or licensee that references this rule, because the plant-specific DCD would be part of the FSAR for the facility.

Paragraph X.B.1 would require applicants or licensees that reference this rule to submit reports, which describe departures from the DCD and include a summary of the written evaluations. The requirement for the written evaluations would be set forth in paragraph X.A.1. The frequency of the report submittals would be set forth in paragraph X.B.3. The requirement for submitting a summary of the evaluations would be similar to the requirement in 10 CFR 50.59(d)(2).

Paragraph X.B.2 would require applicants or licensees that reference this rule to submit updates to the DCD, which include both generic changes and plant-specific departures. The frequency for submitting updates would be set forth in paragraph X.B.3. The requirements in paragraph X.B.3 for submitting the reports and updates would vary according to certain time periods during a facility's lifetime. If a potential applicant for a combined license who references this rule decides to depart from the generic DCD prior to submission of the application, then paragraph B.3.a would require that the updated DCD be submitted as part of the initial application for a license. Under proposed paragraph B.3.b, the applicant may submit any subsequent updates to its plant-specific DCD along with its amendments to the application provided that the submittals are made at least once per year. Because amendments to an application are typically made more frequently than once a year, this should not be an excessive burden on the applicant.

Paragraph B.3.b would also require that the reports required by paragraph X.B.1 be submitted semi-annually. This increase in reporting frequency during the period of construction and application review is consistent with Commission guidance. Also, more frequent reporting of