

IN RESPONSE, PLEASE
REFER TO: M051230

December 30, 2005

MEMORANDUM FOR: Luis A. Reyes
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary */RA/*

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 12:00
P.M., FRIDAY, DECEMBER 30, 2005, COMMISSIONERS'
CONFERENCE ROOM, ONE WHITE FLINT NORTH,
ROCKVILLE, MARYLAND (OPEN TO PUBLIC ATTENDANCE)

I. SECY-05-0227 - Final Rule – AP1000 Design Certification

The Commission¹ approved a final rule amending 10 CFR Part 52 to certify the AP1000 standard plant design, subject to the changes in the attachment.

Following incorporation of these changes and approval of the information collection requirements by the Office of Management and Budget, the Federal Register notice should be reviewed by the Rules Review and Directives Branch in the Office of Administration and forwarded to the Office of the Secretary for signature and publication.

(EDO)

(SECY Suspense:

2/24/06)

Attachment:
As stated

¹ Section 201 of the Energy Reorganization Act, 42 U.S.C. Section 5841, provides that action of the Commission shall be determined by a “majority vote of the members present.” Commissioner McGaffigan was present in the Conference Room. Chairman Diaz and Commissioners Merrifield, Jaczko, and Lyons participated in the meeting via speakerphone.

cc: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Jaczko
Commissioner Lyons
OGC
CFO
OCA
OIG
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR

Changes to the Final Rule in SECY-05-0227

General Comments

1. To ensure clarity when referencing a paragraph of the Appendix, always include the corresponding section reference. Cites to the Code of Federal Regulations should be consistent and should follow the format required by the *Federal Register*.

Specific Changes to the *Federal Register* Notice

2. Page 4, 5th paragraph, revise lines 3 and 4 to read ‘ ... requirement for **an application to contain a sufficient** level of design information **for the Commission to reach a conclusion on all safety questions associated with the design** [§ 52.47(a)(2)],’
3. Page 7, last paragraph, revise line 2 to read ‘ ... 2002, **it is true that** the NRC’ Revise the last line to read ‘ ... than previous **DCRs design certification rulemakings. However, the** The’
4. Page 8, revise lines 1 and 2 from the top to read ‘ ... due to ~~expected~~ efficiencies that **the NRC expected to achieve** ~~would be gained~~ as a result of the similarities between the **previously-approved AP600 design** and **the** AP1000 designs.’
5. Page 8, 3rd full paragraph, revise lines 5 and 6 to read ‘ ... existing DCRs **if in the ongoing part 52 is revised** ~~rulemaking with respect to this issue~~ would also’
6. Page 9, 2nd full paragraph, revise line 2 to read ‘ ... neither part of the **AP1000**’
7. Page 9, 3rd full paragraph, revise line 3 to read ‘ ... that the **AP1000** DCR and’
8. Page 10, 1st full paragraph, revise the last sentence to read ‘ As a result, **the** NRC ~~amended the discussion~~ **refers to the availability controls** in Section III.H of the Supplementary Information (70 FR 20069) ~~of in~~ this *Federal Register* notice ~~to refer to the availability controls.~~’
9. Page 10, 3rd full paragraph, revise line 1 to read ‘ ... of the **AP1000** DCR’ Revise line 2 to read ‘ ... Commission **may** ~~will~~ consider amending the ~~other~~ DCRs’ Revise line 3 to read ‘ ... by NEI **if 10 CFR Part 52 is revised** as part of the ongoing part 52 ~~rulemaking.~~’
10. Page 10, 4th full paragraph, revise line 2 to read ‘ ... requirement that **changes to the** plant-specific’
11. Page 10, last paragraph, delete the 2nd sentence (It is unlikely ... rulemaking.) Revise lines 4 and 5 to read ‘~~If However,~~ if the Commission decides to clarify this issue for the **other DCRs in any potential revision to 10 CFR Part 52** ~~in the ongoing part 52 rulemaking,~~ the NRC’
12. Page 11, 4th full paragraph, revise line 2 to read ‘ ... Commission **may** ~~will~~ consider

- amending the other DCRs' Revise line 3 to read ' ... by NEI if 10 CFR Part 52 is revised as part of the ongoing part 52 rulemaking.'
13. Page 11, last paragraph, revise line 2 to read ' ... IV.A of the AP1000 DCR should be clarified. The Commission may will consider' Revise line 3 to read ' ... this issue if 10 CFR Part 52 is revised as part of the ongoing part 52 rulemaking.'
 14. Page 12, 2nd full paragraph, revise line 3 to read ' ... Commission may will consider' revise lines 4 and 5 to read ' ... the other DCRs to adopt the language recommended by NEI if 10 CFR Part 52 is revised as part of the ongoing part 52 rulemaking.'
 15. Page 13, 2nd full paragraph, revise line 2 to read ' ... DCRs design certification rulemakings that departures' Delete the 3rd sentence (It is unlikely that ... rulemaking.) Revise lines 6 and 7 to read 'If However, if the Commission decides to adopt NEI's proposed language for the other DCRs in any potential revision to 10 CFR Part 52 the ongoing part 52 rulemaking , the NRC'
 16. Page 13, 4th full paragraph, revise lines 1 and 2 to read ' ... first two DCRs design certification rulemakings , the Commission' Revise line 3 to read ' ... VIII.C of the DCRs (see the' Delete the 3rd sentence (It is unlikely that ... rulemaking.) Revise lines 6 and 7 to read 'If However, if the Commission decides to adopt NEI's proposed language for the other DCRs in any potential revision to 10 CFR Part 52 the ongoing part 52 rulemaking , the NRC'
 17. Page 14, 2nd full paragraph, delete the 4th sentence (It is unlikely that ... rulemaking.) Revise lines 8 and 9 to read 'If However, if the Commission decides to adopt NEI's proposed language for the other DCRs in any potential revision to 10 CFR Part 52 the ongoing part 52 rulemaking , the NRC'
 18. Page 14, 4th full paragraph, revise lines 1 and 2 to read ' ... with this request. And has decided to maintain the original rule language for this provision because it does not believe that individual DCRs should not'
 19. Page 14, last paragraph, delete the 2nd sentence (It is unlikely that ... rulemaking.) Revise the last line to read 'If However, if the Commission'
 20. Page 15, revise line from the top to read ' ... for the other DCRs in any potential revision to 10 CFR Part 52 the ongoing part 52 rulemaking , the NRC'
 21. Page 15, 2nd full paragraph, delete the 3rd sentence (It is unlikely that ... rulemaking.) Revise lines 5 and 6 to read 'If However, if the Commission decides to adopt NEI's proposed language for the other DCRs in any potential revision to 10 CFR Part 52 the ongoing part 52 rulemaking , the NRC'
 22. Page 15, 4th full paragraph, revise line 1 to read ' ... this comment and : Section' Revise line 2 to read ' ... amended to clarify the language be consistent with the other DCRs in the proposed part 52 rule.' Revise line 4 to read ' ... Commission may consider amending the existing' Revise line 5 to read ' ... DCR in any potential revision to 10 CFR Part 52.'

23. Page 16, 1st paragraph, revise lines 6 and 7 to read ‘ ... two **DCRs** ~~design certification rules~~ for the’ Revise line 8 to read ‘ ... extensive **public** discussions with ~~public~~’ Revise line 11 to read ‘ ... certain departures : **where** ~~These departures are~~ necessary,
24. Page 16, last paragraph, line 2, insert a comma after “DCR”.
25. Page 17, 1st full paragraph, revise lines 4 and 5 to read ‘ ... references this appendix. This distinction is necessary in order to specify the **relevant** plant-specific requirements ~~applicable~~ to’
26. Page 17, last paragraph, revise line 3 to read ‘ ... rulemaking, ~~any~~’
27. Page 18, 2nd full paragraph, revise the last line to read ‘ ... of Documents, **of this Statement of Consideration (SOC)**.’
28. Page 19, 1st full paragraph, revise the last 2 lines to read ‘ ... of this ~~statement of consideration (SOC)~~.’
29. Page 21, revise line 2 from the top to read ‘ ... discussion, see Section **III.C of this SOC.**’
30. Page 22, 1st full paragraph, revise line 1 to read ‘ ... of this **appendix DCR** is to’ Revise line 12 to read ‘ ... by reference (**1 CFR Part 51**).’
31. Page 23, revise line 6 from the top to read ‘ ... Section III **of this appendix** to’
32. Page 24, 1st paragraph, revise the last 2 lines to read ‘ ... of this ~~Statement of Consideration (SOC)~~ on’
33. Page 25, 1st full paragraph, revise line 3 to read ‘ ... This **paragraph appendix** distinguishes’
34. Page 25, 2nd full paragraph, revise line 4 to read ‘ ... initial application : **to** ~~This~~ ensures that the’ Revise lines 5 and 6 to read ‘ ... requires ~~that~~ the plant-specific DCD **to** uses the same format as the generic DCD and reflects the’
35. Page 28, 1st paragraph, revise line 6 to read ‘ ... finds that **none** ~~all~~ of these new regulations are ~~not~~ applicable’
36. Page 29, revise the last line to read ‘ ... **GDC 17 - Second Offsite Power Supply Circuit Offsite Power Sources.**’
37. Page 32, revise line 1 to read ‘ ... phrase **“but only for that plant”** ~~“but only for that plant”~~ (emphasis added).’
38. Page 32, 1st full paragraph, revise line 6 to read ‘ ... plant (**e.g., such as** an’
39. Page 32, last paragraph, revise line 3 to read ‘ ... of 1969, **as amended (NEPA)** associated’
40. Page 33, 1st paragraph, revise line 13 to read ‘ ... operational **requirements** ~~issues~~, such

- as' Revise line 14 to read ' ... activities, and requirements governing shutdown'
Revise the last line to read ' ... (see paragraph VIII.C of'
41. Page 34, 1st full paragraph, revise line 4 to read ' ... (paragraph VI.D.3 would'
 42. Page 34, 2nd full paragraph, line 4, delete the comma after "E".
 43. Page 35, last paragraph, revise line 4 to read ' ... this DCR design certification rule.'
Revise line 6 to read ' ... Section VIII of this appendix distinguishes' Revise line 8 to
to read ' ... this DCR design certification rule itself,'
 44. Page 36, 1st full paragraph, revise line 1 to read 'Section VIII of this appendix and
Sections XI of this SOC refers to an "exemption" from'
 45. Page 37, 1st full paragraph, revise lines 5 and 6 to read ' ... this SOC preamble, it is ...
emulates Appendix C to 10 CFR Part' Revise the last line to read ' ... 4, 1999
1994).'
 46. Page 38, 1st full paragraph, revise line 4 to read ' ... paragraph B.5 [similar to the
process in 10 CFR 50.59 the "§ 50.59-like" process];'
 47. Page 40, revise line 5 from the top to read ' ... where when the intended function'
 48. Page 45, last paragraph, revise line 9 to read ' ... reviewed and approved by the NRC
staff in support of to facilitate the design'
 49. Page 46, revise line 2 from the top to read ' ... requirement contained in paragraph
VIII.C.5 is similar' Revise line 4 from the top to read ' ... are present (paragraph
VIII.C.5).'
 50. Page 47, 1st paragraph, line 2, change "B.3 d" to "B.3".
 51. Page 50, last paragraph, line 2, revise the zip code to "20852".
 52. Page 51, delete paragraph V. On Plain Language and renumber the remaining
paragraphs.
 53. Page 52, last paragraph, revise lines 1 and 2 to read ' ... under the National
Environmental Policy Act of 1969, as amended, (NEPA), and the Commission's
regulations in 10 CFR part 51, Ssubpart' Revise line 5 to read ' ... environmental
assessment (EA), is'
 54. Page 53, 1st paragraph, revise line 3 to read ' ... in Appendix 1B'
 55. Page 53, 2nd paragraph, revise line 1 to read 'The environmental assessment (EA),
upon which' Revise line 4 to read ' ... Maryland, 20852. The'
 56. Page 56, revise line 5 from the top to read ' ... of the Regulatory Flexibility Act.'
 57. Page 57, 1st full paragraph, revise line 1 to read ' ... out in this SOC the preamble and

under' Conforming changes should be made throughout the document.

58. Page 58, 1st paragraph, revise line 2 to read ' ... 52, ~~S~~subpart B. The'
59. Page 60, last paragraph, revise line 8 to read ' ... Rockville, Maryland, ~~20852~~. Copies'
60. Page 61, 1st full paragraph, revise the last line to read ' ... ~~A~~appendix 1B of'
61. Page 63, revise line 2 from the top to read ' ... ~~Second~~ offsite power ~~Sources~~ supply circuit.'
62. Page 64, paragraph 7., revise line 2 to read ' ... and ~~A~~appendix 1B of'
63. Page 72, last paragraph, line 2, insert a comma after "license".

Specific Changes to the Environmental Assessment

64. Page 3, 2nd paragraph, revise line 4 to read ' ... 1969, ~~(NEPA)~~ as amended (~~NEPA~~). This'
65. Page 6, 1st full paragraph, revise the last 2 lines to read ' ... Section 19.1.6.2 of NUREG-4793 ~~the DCD~~, "AP1000 Design... ").'
66. Page 7, last paragraph, revise line 2 to read ' ... neither ~~the~~ alternative'
67. Page 9, 1st bullet, revise line 1 to read ' ... CFR 50.34(f)(1)(~~it~~)¹ requires'
68. Page 9, footnote 1, revise line 1 to read ' ... CFR 50.34(f)(1)(~~it~~) by'
69. Page 13, paragraph (5), delete the 2nd sentence (Note, however, ... objectives.)
70. Page 14, paragraph (8), revise line 2 to read ' ... method ~~could be used~~ to prevent' Revise lines 3 and 4 to read ' ... the amount) ~~—This alternative method would involve'~~
71. Page 17, 1st paragraph, revise lines 1 and 2 to read ' ... the same as ~~that those~~ considered' Revise line 5 to read ' ... following plants ~~designs~~:'
72. Page 17, 2nd full paragraph, revise the last line to read ' ... of the ~~following~~ two'
73. Page 20, 1st paragraph, revise line 5 to read ' ... in terms of ~~avoided~~ whole'
74. Page 21, 1st paragraph, revise line 4 to read ' ... these ~~uncertainties~~ ~~factors~~ could lead to significantly higher ~~or lower~~ risk' Revise lines 5 and 6 to read ' ... and risk estimates in the baseline PRA. In assessing the risk reduction potential of ~~the various~~ design ~~alternatives~~ ~~improvements~~ for the AP1000, the NRC has based its evaluation on ~~a~~ ~~review of~~ the' Revise line 7 to read ' ... estimates ~~for the various design alternatives~~, in conjunction'
75. Page 21, last paragraph, revise line 5 to read ' ... costs ~~relative to~~ ~~and decrease~~ the'

76. Page 22, 1st paragraph, 1st sentence, the staff may wish to consider clarifying this sentence to acknowledge the status of the additional 3 SAMDAs discussed in 4.2 and 4.3. Line 5, delete the comma after “designs”. Line 11, insert a period after “estimates” and delete the remainder of the sentence (... and the level of ... compared.)
77. Page 23, next to last paragraph, revise line 4 to read ‘ ... would only **be** increased’
78. Page 25, last paragraph, delete the 3rd sentence (Neither of these ... frequency.)
79. Page 26, 1st full paragraph, revise line 1 to read ‘ ... meeting a **cost**-benefit ~~cost~~ criterion of’
80. Page 28, last paragraph, revise line 3 to read ‘ ... operational **costs for aspects** of the’
81. Page 30, paragraph 1 under section 6.0, revise line 1 to read ‘ ... EA to **every** the State Liaison Officers’
82. Page 30, paragraph 2 under section 6.0, revise line 1 to read ‘ ... the NEPA of 1969, ~~as amended~~, and the’
83. Page 31, line 9 from the top, delete the extra period at the end of the line.
84. Page 32, last paragraph, revise lines 1 through 3 to read ‘ ... **Storage, L.L.C. (Independent Spent Fuel Storage Installation)**, (CLI-02-25, **56 NRC 340 (2002) 12/18/2002**), the NRC has no obligation under the **National Environmental Policy Act (NEPA)** to consider’
85. Page 33, 1st full paragraph, revise line 3 to read ‘ ... staff **has** ~~is conducted~~ **and continues to conduct** a comprehensive’ Revise line 4 to read ‘ ... measures, and **the Commission has** ~~have~~ instituted ~~interim~~ upgrades in’ Line 5, insert a new sentence after the period which reads: “The Commission has issued a proposed rule to amend 10 CFR Part 73 and the design basis threat (70 FR 67380, Nov. 7, 2005), and is planning to issue a series of security related rulemakings over the next three years.”
86. Page 33, last paragraph, delete the 1st sentence (The logical outgrowth ... circular.) And add the following at the end of line 2 on page 34: “NRC review of the design certification application includes a review of generic environmental parameters submitted by the reactor vendor. If a COL applicant references the certified design, it is up to that applicant to demonstrate that the site-specific environmental parameters are bounded by the generic environmental parameters, or provide a basis for deviations from those parameters.”
87. Page 38, last paragraph, revise line 4 to read ‘ ... Rockville, Maryland, **20852**.’