

PR 1,2,10,19,20,21,25,26,50,52,54,55, et. al.
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Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Comments on Proposed Final Rule, 10 CFR Part 52 and Conforming Changes to Other Parts of Title 10, SECY-06-0220, October 31, 2006 (RIN 3150-AG24)

AREVA NP Inc. (AREVA NP) has reviewed the NRC's proposed final rule amending 10 CFR Part 52 and making conforming changes to other parts of Title 10, as published in SECY-06-0220, "Final Rule to Update 10 CFR Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants (RIN AG24)." An AREVA NP representative also attended the October 25, 2006, public meeting with the NRC staff to discuss the final rulemaking documentation, and the November 9, 2006, Commission briefing on these rule changes. Based on our review of the proposed final rule and the discussions at the two meetings, AREVA NP would like to submit additional comments regarding the proposed final rule.

AREVA NP supports the comments provided by the industry panel at the November 9 Commission briefing. AREVA NP also endorses NEI's comments in its letter to the NRC of December 1, 2006, on the subject of "Key Remaining Issues Concerning 10 CFR Part 52 Rulemaking."

Attachment 1 to this letter contains AREVA NP's detailed comments on the proposed final rule and accompanying documentation as provided in SECY-06-0220.

If you have any questions concerning this letter, please contact Ms. Sandra M. Sloan, AREVA NP Regulatory Affairs Manager for New Plants Deployment. She may be reached by telephone at 434-832-2369 or by e-mail at sandra.sloan@areva.com.

Sincerely,

A handwritten signature in cursive script that reads "Ronnie L. Gardner".

Ronnie L. Gardner, Manager
Site Operations and Regulatory Affairs
AREVA NP Inc.

Enclosure

cc: L. J. Burkhart
G. Tesfaye
Project 733

Template=SECY-067
AREVA NP INC.
An AREVA and Siemens company

SECY-02

Attachment 1

Additional Comments on Proposed Final Rule, 10 CFR Part 52 and Conforming Changes to Other Parts of Title 10, SECY-06-0220, October 31, 2006 (RIN 3150-AG24)

Continued Requirement to Address Severe Accident Mitigation Design Alternatives (SAMDA)

1. In several places, the NRC discusses the issue of evaluation of severe accident mitigation design alternatives. The new Part 52, along with conforming changes to 10 CFR Part 51, will require the submission, as part of a design certification application, of an environmental report (ER) that appears to be for the express purpose of performing a SAMDA evaluation—which essentially repeats the technical evaluation (including cost-benefit) performed to satisfy the technical requirements in 10 CFR 50.34(f)(1)(i). AREVA's request to have the new rule revert to current practice, in which the SAMDA evaluation is included in Chapter 19 of the FSAR (DCD), was rejected.

Also, AREVA and the industry (via NEI) requested that the NRC undertake a generic rulemaking to establish that severe accidents were "remote and speculative," which would be a basis, under the National Environmental Policy Act (NEPA) to eliminate the need to assess SAMDAs at all. The NRC also rejected this suggestion, indicating that it does not, at this time, consider the risks associated with severe accidents to be "remote and speculative," and that it considered SAMDA evaluations to be useful. This ignores the fact that for all of the design certification applications reviewed by the NRC, not a single SAMDA has been adopted; the risk profiles of all of the advanced designs are such that no design change results in a benefit that is significantly greater than the cost. The NRC indicates in its discussion of stakeholder comments that it will continue to evaluate severe accident risks and take action if and when those risks are, in the NRC's view, "remote and speculative." The NRC does not, however, indicate what criteria it will use to make that determination. In view of the fact that current advanced LWR core damage frequencies are on the order of 1E-7 or smaller, and large release frequencies are at least an order of magnitude smaller than that, one wonders how low the frequency will have to be before the NRC accepts that the risk has become "remote and speculative."

It is also worth noting that the finding requested by the industry (and rejected by the NRC) affects only SAMDA evaluations. Finding severe accident risks to be remote and speculative would not, in and of itself, change anything else with regard to DC or COL application requirements. PRAs would still be required, "deterministic" severe accident evaluations would still be required (currently imposed via SECY-93-087, incorporated into the technical requirements for DC in the new Part 52), and so forth. The NRC's unwillingness to undertake this effort is, therefore, difficult to understand.

Inability to Reference Docketed Standard Design Approval and Manufacturing License Applications

2. The NRC has retained the capability for an applicant for a COL, at its own risk, to reference an application docketed and under review as follows:

10 CFR 52.27(c): site for which an ESP has been docketed

10 CFR 52.55(c): design for which a standard design certification has been docketed

No similar provisions are included for referencing a design for which either an application for standard design approval or an application for a manufacturing license has been docketed. It is not clear why ESP and DC applications are included, but SDAs and MLs are not, particularly insofar as both ML and SDA applications will be relatively similar in technical content to DC applications.

AREVA recommends the addition of a provision to reference a design for which either an application for standard design approval or an application for a manufacturing license has been docketed.

Inability to Incorporate Docketed DCDs/FSARs by Reference into COL FSARs

3. The requirements for technical information in COLAs, 10 CFR 52.79, contains provisions for incorporating by reference the safety analysis reports associated with ESPs, DCs, SDAs, and MLs, as appropriate. However, there do not appear to be any similar provisions for a COL applicant to incorporate by reference the safety analysis report for a DC application or an ESP application that has been docketed and is under review. (As noted in the above item, there is apparently no provision to reference a design for which there is a docketed application for an SDA or an ML.) The implication is that the information in the docketed DC and/or ESP application must be physically included in the COL application, as well. Presumably, this requirement would also apply to a design for which a certification already exists but which is being "recertified" to incorporate changes to the certified design requiring rulemaking at the time a COLA is submitted, assuming the COL applicant would be referencing the modified design, not the certified design.

It would appear that this requirement has the potential to cause the NRC to perform duplicative reviews of the same material (in the COLA and ESP and/or DC application), which will impede the effectiveness and efficiency of the review. It would also appear that this requirement could cause substantial confusion in the event that a COLA references a DC rule and incorporates the DC SAR by reference, if during the NRC's review there is an application for a change to the DCR that would require rulemaking—in effect, a "recertification" of the design as described above. Assuming the COL applicant would want to include the proposed design change in the COLA, at the point at which the NRC begins its review of the proposed rule change, the COLA would no longer reference a design certification, but a design for which a DC application had been docketed.

In its response to stakeholder comments, the NRC rejected a suggestion that it develop additional guidance addressing the cases in which a COLA references sites/designs for which ESP/DC applications have been docketed. (See draft Comment Summary Report, Enclosure 3 to SECY-06-0220, pp. 22-24.) Notwithstanding the staff's refusal to consider this issue further, the Commission has recently issued a policy statement addressing some, but not all, of these concerns. AREVA recommends that the NRC reconsider its dismissal of the previous comment. If the NRC determines that review processes addressing the situations described above should not be codified in 10 CFR Part 52, AREVA recommends that the NRC develop additional guidance to address these concerns as quickly as possible, since several of the COL applications that are scheduled to be submitted in the latter part of CY 2007 or early CY 2008 will reference either a site or design for which an ESP or DC application, respectively, has been docketed.

Duplication of Language for Standard Design Approvals

4. The language in proposed 10 CFR 52.137(b) and (c) is exactly the same, and this subpart (on Standard Design Approvals) does not include language similar to that on Standard Design Certifications regarding modular reactors.

AREVA recommends that 10 CFR 52.137(b) and (c) be corrected to eliminate duplication and to include a provision regarding modular reactors.

Documentation of ITAAC Completion

5. Several of the provisions in the proposed 10 CFR 52.99 are overly prescriptive or inflexible in their wording. Recommendations for modifications to these requirements were discussed at the November 17, 2006, workshop on this subject. In particular, the following points are emphasized:

- a. More detailed guidance should be developed for implementation of 10 CFR 52.99, as discussed at the workshop, and the regulation should be sufficiently flexible to accommodate a range of situations, with specific details on implementation provided in the guidance documentation. For example, §52.99(a) could be revised to state, "The licensee shall submit its schedule for completion of ITAAC." The guidance document would then provide examples of when the schedule first should be submitted and how often it should be updated, including increasing the frequency of updates as the §52.103(a) notice approaches.
- b. The information in Tier 1, including the ITAAC, is derived from the information in Tier 2. The information in Tier 2 provides more detail regarding the bases for the Tier 1 information. ITAAC determination bases in §52.99 (c)(1) and §52.99(c)(2) should not require more information than was required to obtain the design certification approval.