

From: "McCallum, Thomas O." <TOMCCALL@southernco.com>
To: "Christian Araguas" <CJA2@nrc.gov>
Date: 4/19/2006 3:23:41 PM
Subject: FW: Treasury Department/Internal Revenue Service guidance on production tax credit for new nuclear power plants

See text in blue.

ENERGY

POLICY

ACT OF 2005

IMPLEMENTATION

Issue: Treasury Department/Internal Revenue Service guidance on production tax credit for new nuclear power plants.

Action Requested: None. For information only.

Pasted below is the Treasury Department/Internal Revenue Service guidance on allocation of the production tax credit for new nuclear power plants, authorized by the 2005 Energy Policy Act. In brief, the guidance provides the following:

1. The 6,000-MW national limit for PTCs will be allocated pro rata based upon all COL applications filed before 12.31.2007, or thereafter until the 6,000-MW limit is met (if the 6,000-megawatt limitation is not fully subscribed by 12.31.2007)
2. Construction (COL issued and pouring safety-related concrete) must begin by 1.1.2014
3. DOE must certify that the reactor qualifies as an advanced reactor and that it is "feasible" for the reactor to be placed in service by 1.1.2021
4. Applications for allocations are due to Treasury by 1.1.2014. Project developers will, however, be able to figure out where they stand (for share of PTCs) based upon tracking COL applications submitted to NRC by 12.31.2007 (or thereafter, if 6,000 megawatts of capacity has not filed for

COLs are not in by then).

NEI will coordinate industry comments on this interim guidance. We will schedule an industry meeting or telecon shortly to discuss next steps.

For your reference, NEI's original comments to Treasury (from January 18, 2006) on this matter are attached.

IRS Notice 2006-40 Providing Interim Guidance Relating to Credit For Production of Electricity at Advanced Nuclear Power Facilities

This notice is scheduled to appear in Internal Revenue Bulletin 2006-18, dated May 1, 2006.

Part III - Administrative, Procedural, and Miscellaneous

Credit for Production from Advanced Nuclear Facilities

Notice 2006-40

SECTION 1. PURPOSE

This notice sets forth interim guidance, pending the issuance of regulations, relating to the credit under § 45J of the Internal Revenue Code for production of electricity at advanced nuclear power facilities. Specifically, this notice specifies the method that will be used to allocate the national megawatt capacity limitation that limits the allowable credit and prescribes the application process by which taxpayers may request an allocation of the national megawatt capacity limitation. This notice also provides guidance on the requirement that the electricity be sold to an unrelated person and on the effect of grants, tax-exempt bonds, subsidized energy financing, and other credits. The Internal Revenue Service and the Treasury Department expect that the regulations will incorporate the rules set forth in this notice.

SECTION 2. BACKGROUND

.01 Section 45J was enacted by section 1306 of the Energy Policy Act of 2005, Public Law 109-58 (199 Stat. 594). Section 45J permits a taxpayer to claim a credit for electricity that the taxpayer (1) produces at an advanced nuclear power facility during the eight-year period beginning when the facility is placed in service and (2) sells to an unrelated person (qualifying electricity).

.02 Under §45J(d), an advanced nuclear power facility is a nuclear facility that meets all of the following requirements:

(1) The facility consists of a nuclear power reactor that uses nuclear energy to produce electricity. For purposes of this notice, each nuclear power reactor located on a multi-reactor site is a separate facility.

(2) The facility is owned by the taxpayer.

(3) The reactor design for the facility is approved by the Nuclear Regulatory Commission after December 31, 1993 (and such design or a substantially similar design of comparable capacity was not approved on or before that date).

(4) The facility is placed in service before January 1, 2021.

.03 Under §45J(b)(1), a taxpayer may claim a credit for qualifying electricity produced at an advanced nuclear power facility only if part of the national megawatt capacity limitation has been allocated to the facility.

.04 Under §45J(b)(1) and (c), the credit allowed for a taxable year with respect to the qualified electricity produced at an advanced nuclear power facility is computed under the following rules:

(1) A tentative credit for the taxable year is computed for the facility. The facility's tentative credit for the taxable year is equal to 1.8 cents multiplied by the kilowatt hours of qualified electricity produced at the facility and sold during the taxable year to an unrelated person.

(2) The credit percentage is computed for the facility. If the nameplate capacity of the facility exceeds the national megawatt capacity limitation allocated to the facility, the credit percentage for the facility is determined by dividing the national capacity limitation allocated to the facility by its nameplate capacity. If the nameplate capacity of the facility does not exceed the national megawatt capacity limitation allocated to the facility, the credit percentage for the facility is 100 percent.

(3) The credit allowed is the lesser of (a) the tentative credit for the facility multiplied by the credit percentage for the facility, or (b) \$125,000,000 per 1000 megawatts of national megawatt capacity limitation allocated to the facility.

.05 Section 45J(b)(2) provides that the national megawatt capacity limitation is 6,000 megawatts. Section 45J(b)(3) requires the Secretary to allocate this national megawatt capacity limitation. Section 45J(b)(4) requires the Secretary to provide a certification process under which the Secretary, after consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation.

SECTION 3. ALLOCATION OF NATIONAL MEGAWATT CAPACITY LIMITATION

.01 Allocation Limited to Qualifying Facilities. The Service will allocate the national megawatt capacity limitation only to advanced nuclear facilities (within the meaning of § 45J(d)(2)) that satisfy the requirements of this section 3.01 (qualifying facilities). An advanced nuclear facility is a qualifying facility only if each of the following requirements is satisfied:

(1) An application for a construction/operating license for the facility is filed with the Nuclear Regulatory Commission on or before the later of (i) December 31, 2007, or (ii) the date on which the aggregate nameplate capacity of advanced nuclear facilities for which applications for a construction/operating license have been filed with the Nuclear Regulatory Commission first equals or exceeds 6,000 megawatts.

(2) Construction on the facility begins before January 1, 2014. For this purpose, construction begins when a person who has applied for or been granted a combined license for an advanced nuclear facility initiates the pouring of safety-related concrete for the reactor building.

(3) The U.S. Department of Energy (DOE) provides a certification that the facility qualifies as an advanced nuclear facility, that the requirements of section 3.01(1) and (2) are satisfied, and that it is feasible for the facility to be placed in service prior to January 1, 2021 ("DOE certification").

.02 Application Required.

The Service will allocate the national megawatt capacity limitation only to qualifying facilities for which the applications are submitted in accordance with section 4 of this notice.

.03 Allocation Method.

The national megawatt capacity limitation will be allocated as follows:

(1) If the total nameplate capacity of all qualifying facilities for which applications are submitted does not exceed the national megawatt capacity limitation, each of those facilities will be allocated an amount of national megawatt capacity limitation equal to its nameplate capacity.

(2) If the total nameplate capacity of all qualifying facilities for which applications are submitted exceeds the national megawatt capacity limitation, the national megawatt capacity limitation will be allocated among the facilities in proportion to their nameplate capacities.

.04 Service Action.

On or before December 31, 2014, the Service will accept or reject the taxpayer's application and will notify the taxpayer, by letter, of its decision. If the taxpayer's application is accepted, the acceptance letter will state the amount of the national megawatt capacity limitation allocated to the facility.

SECTION 4. APPLICATIONS FOR ALLOCATION OF NATIONAL MEGAWATT CAPACITY LIMITATION

.01 A taxpayer must submit, for each facility for which an allocation of the national megawatt capacity limitation is requested (1) an application to the Service for an allocation under § 45J(b) ("application for § 45J allocation") and (2) an application to DOE for a DOE certification ("application for DOE certification").

.02 Applications for § 45J allocation and applications for DOE certification must be submitted before January 31, 2014. For purposes of this notice, an application that is submitted by U.S. mail will be treated as received by the Service on the date of the postmark and an application submitted by a private delivery service will be treated as received by the Service on the date recorded or the date marked in accordance with § 7502(f)(2)(C).

.03 The application for §45J allocation must include all of the following:

(1) The name and taxpayer identification number of the taxpayer who will place the facility in service;

(2) The name and location of the facility;

(3) The nameplate capacity of the facility;

(4) The date on which the application for a construction/operating license for the facility was filed with the Nuclear Regulatory Commission;

(5) The date on which construction on the facility began;

(6) Documentation establishing that the facility is expected to be placed in service prior to January 1, 2021; and

(7) A copy of the application for DOE certification for the facility.

.04 Applications for § 45J allocation should be marked: SECTION 45J APPLICATION FOR ALLOCATION. There is not any user fee for these applications.

(1) These applications should be sent to the following address:

Internal Revenue Service

Attn: CC:PSI:6, Room 5114

P.O. Box 7604

Ben Franklin Station

Washington, DC 20044

If a private delivery service is used, the address is:

Internal Revenue Service

Attn: CC:PSI:6, Room 5114

1111 Constitution Ave., N.W.

Washington, DC 20224

(2) Applications for certification may also be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to:

Courier's Desk

Internal Revenue Service

Attn: CC:PSI:6, Room 5114

1111 Constitution Avenue N.W.

Washington, DC 20224

.03 The application for DOE certification must be submitted to DOE in such manner and contain such information as DOE may require. If DOE determines that the conditions for certification are satisfied (see section 3.01 of this notice), it will provide the DOE certification to the Service. The DOE certification will be subject to such requirements and conditions as the Secretary of Energy may prescribe.

SECTION 5. REALLOCATION OF NATIONAL MEGAWATT CAPACITY LIMITATION IN CERTAIN CASES

If an amount of national megawatt capacity limitation is allocated to a facility and the facility is not placed in service before January 1, 2021, or the DOE informs the Service that the DOE certification for the facility has been withdrawn, the amount of the national megawatt capacity limitation allocated to that facility will be withdrawn and the national megawatt capacity limitation will be reallocated under the rules of section 3.03 of this notice among the remaining qualifying facilities.

SECTION 6. ADDITIONAL ISSUES

.01 Sale to Unrelated Person. The credit under § 45J is allowed only for electricity that the taxpayer produces and sells to an unrelated person. Electricity will be treated as sold to an unrelated person for this purpose if the ultimate purchaser of the electricity is not related to the person that produces the electricity. The requirement of a sale to an unrelated person will be treated as satisfied in these circumstances even if the producer sells the electricity to a related person for resale by the related person to a person that is not related to the producer. For rules for determining whether a person is related to the producer of the electricity, see § 45(e)(4).

.02 Effect of Grants, Tax-Exempt Bonds, Subsidized Energy Financing, and Other Credits. The amount of the credit under § 45J is not reduced on account of any grants, tax-exempt bonds, subsidized energy financing, or other credits described in § 45(b)(3).

SECTION 7. PAPERWORK REDUCTION ACT

The collection of information contained in this notice has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-2000.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collections of information in this notice are in section 3. This information is required to be collected and retained in order for taxpayers to claim the new credit for the production of electricity from advanced nuclear power facilities under § 45J. The information will be used to determine the portion of the national megawatt capacity limitation to which a taxpayer's facility is entitled. The collection of information is required to obtain a benefit. The likely respondents are corporations and partnerships.

The estimated total annual reporting burden is 600 hours.

The estimated annual burden per respondent varies from 10 to 60 hours, depending on individual circumstances, with an estimated average of 40 hours. The estimated number of respondents is 15.

The estimated annual frequency of responses is on occasion.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

SECTION 8. DRAFTING INFORMATION

The principal author of this notice is Patrick S. Kirwan of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice contact Mr. Kirwan at (202) 622-3110 (not a toll-free call).

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Created By: TOMCCALL@southernco.com

Recipients
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Priority: Standard
Reply Requested: No
Return Notification: None
None

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4. Applications for allocations are due to Treasury by 1.1.2014. Project developers will, however, be able to figure out where they stand (for share of PTCs) based upon tracking COL applications submitted to NRC by 12.31.2007 (or thereafter, if 6,000 megawatts of capacity has not filed for COLs are not in by then).

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SECTION 2. BACKGROUND

.01 Section 45J was enacted by section 1306 of the Energy Policy Act of 2005, Public Law 109-58 (199 Stat. 594). Section 45J permits a taxpayer to claim a credit for electricity that the taxpayer (1) produces at an advanced nuclear power facility during the eight-year period beginning when the facility is placed in service and (2) sells to an unrelated person (qualifying electricity).

.02 Under §45J(d), an advanced nuclear power facility is a nuclear facility that meets all of the following requirements:

- (1) The facility consists of a nuclear power reactor that uses nuclear energy to produce electricity. For purposes of this notice, each nuclear power reactor located on a multi-reactor site is a separate facility.
- (2) The facility is owned by the taxpayer.
- (3) The reactor design for the facility is approved by the Nuclear Regulatory Commission after December 31, 1993 (and such design or a substantially similar design of comparable capacity was not approved on or before that date).
- (4) The facility is placed in service before January 1, 2021.

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- (1) A tentative credit for the taxable year is computed for the facility. The facility's tentative credit for the taxable year is equal to 1.8 cents multiplied by the kilowatt hours of qualified electricity produced at the facility and sold during the taxable year to an unrelated person.
- (2) The credit percentage is computed for the facility. If the nameplate capacity of the facility exceeds the national megawatt capacity limitation allocated to the facility, the credit percentage for the facility is determined by dividing the national capacity limitation allocated to the facility by its nameplate capacity. If the nameplate capacity of the facility does not exceed the national megawatt capacity limitation allocated to the facility, the credit percentage for the facility is 100 percent.
- (3) The credit allowed is the lesser of (a) the tentative credit for the facility multiplied by the credit percentage for the facility, or (b) \$125,000,000 per 1000 megawatts of national megawatt capacity limitation allocated to the facility.

.05 Section 45J(b)(2) provides that the national megawatt capacity limitation is 6,000 megawatts. Section 45J(b)(3) requires the Secretary to allocate this national megawatt capacity limitation. Section 45J(b)(4) requires the Secretary to provide a certification process under which the Secretary, after consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation.

SECTION 3. ALLOCATION OF NATIONAL MEGAWATT CAPACITY LIMITATION

.01 Allocation Limited to Qualifying Facilities. The Service will allocate the national megawatt capacity limitation only to advanced nuclear facilities (within the meaning of § 45J(d)(2)) that satisfy the requirements of this section 3.01 (qualifying facilities). An advanced nuclear facility is a qualifying facility only if each of the following requirements is satisfied:

- (1) An application for a construction/operating license for the facility is filed with the Nuclear Regulatory Commission on or before the later of (i) December 31, 2007, or (ii) the date on which the aggregate nameplate capacity of advanced nuclear facilities for which applications for a construction/operating license have been filed with the Nuclear Regulatory Commission first equals or exceeds 6,000 megawatts.
- (2) Construction on the facility begins before January 1, 2014. For this purpose, construction begins when a person who has applied for or been granted a combined license for an advanced nuclear facility initiates the pouring of safety-related concrete for the reactor building.
- (3) The U.S. Department of Energy (DOE) provides a certification that the facility qualifies as an advanced nuclear facility, that the

requirements of section 3.01(1) and (2) are satisfied, and that it is feasible for the facility to be placed in service prior to January 1, 2021 ("DOE certification").

.02 Application Required.

The Service will allocate the national megawatt capacity limitation only to qualifying facilities for which the applications are submitted in accordance with section 4 of this notice.

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The national megawatt capacity limitation will be allocated as follows:

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On or before December 31, 2014, the Service will accept or reject the taxpayer's application and will notify the taxpayer, by letter, of its decision. If the taxpayer's application is accepted, the acceptance letter will state the amount of the national megawatt capacity limitation allocated to the facility.

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.01 A taxpayer must submit, for each facility for which an allocation of the national megawatt capacity limitation is requested (1) an application to the Service for an allocation under § 45J(b) ("application for § 45J allocation") and (2) an application to DOE for a DOE certification ("application for DOE certification").

.02 Applications for § 45J allocation and applications for DOE certification must be submitted before January 31, 2014. For purposes of this notice, an application that is submitted by U.S. mail will be treated as received by the Service on the date of the postmark and an application submitted by a private delivery service will be treated as received by the Service on the date recorded or the date marked in accordance with § 7502(f)(2)(C).

.03 The application for §45J allocation must include all of the following:

- (1) The name and taxpayer identification number of the taxpayer who will place the facility in service;
- (2) The name and location of the facility;
- (3) The nameplate capacity of the facility;
- (4) The date on which the application for a construction/operating license for the facility was filed with the Nuclear Regulatory Commission;
- (5) The date on which construction on the facility began;
- (6) Documentation establishing that the facility is expected to be placed in service prior to January 1, 2021; and
- (7) A copy of the application for DOE certification for the facility.

.04 Applications for § 45J allocation should be marked: SECTION 45J APPLICATION FOR ALLOCATION. There is not any user fee for these applications.

(1) These applications should be sent to the following address:

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SECTION 5. REALLOCATION OF NATIONAL MEGAWATT CAPACITY LIMITATION IN CERTAIN CASES

If an amount of national megawatt capacity limitation is allocated to a facility and the facility is not placed in service before January 1, 2021, or the DOE informs the Service that the DOE certification for the facility has been withdrawn, the amount of the national megawatt capacity limitation allocated to that facility will be withdrawn and the national megawatt capacity limitation will be reallocated under the rules of section 3.03 of this notice among the remaining qualifying facilities.

SECTION 6. ADDITIONAL ISSUES

.01 Sale to Unrelated Person. The credit under § 45J is allowed only for electricity that the taxpayer produces and sells to an unrelated person. Electricity will be treated as sold to an unrelated person for this purpose if the ultimate purchaser of the electricity is not related to the person that produces the electricity. The requirement of a sale to an unrelated person will be treated as satisfied in these circumstances even if the producer sells the electricity to a related person for resale by the related person to a person that is not related to the producer. For rules for determining whether a person is related to the producer of the electricity, see § 45(e)(4).

.02 Effect of Grants, Tax-Exempt Bonds, Subsidized Energy Financing, and Other Credits. The amount of the credit under § 45J is not reduced on account of any grants, tax-exempt bonds, subsidized energy financing, or other credits described in § 45(b)(3).

SECTION 7. PAPERWORK REDUCTION ACT

The collection of information contained in this notice has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-2000.

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The principal author of this notice is Patrick S. Kirwan of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice contact Mr. Kirwan at (202) 622-3110 (not a toll-free call).

RICHARD MYERS

Executive Director, Policy Development

Special Assistant to the President

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NUCLEAR ENERGY INSTITUTE

RICHARD J. MYERS

Executive Director, Policy Development

January 18, 2005

Mr. John Parcell
Acting Deputy Tax Legislative Counsel
U.S. Department of Treasury
1500 Pennsylvania Avenue
Room 4224
Washington, D.C. 20220

**SUBJECT: Production Tax Credit for Advanced Nuclear Energy
Facilities (Section 1306 of the Energy Policy Act of 2005;
Section 45J of the Internal Revenue Code)**

Dear Mr. Parcell:

On behalf of the U.S. nuclear energy industry, the Nuclear Energy Institute (NEI) appreciates the opportunity to provide comments to the Department of the Treasury and the Internal Revenue Service on Section 1306 of the Energy Policy Act of 2005, which added section 45J to the Internal Revenue Code.¹ Section 45J provides a production tax credit (PTC) of 1.8 cents per kilowatt-hour applicable to certain advanced nuclear energy facilities. This letter provides the nuclear energy industry's position on implementation of section 45J, including such issues as allocation of the 6,000 megawatts of capacity eligible for the credit.

NEI would appreciate the opportunity to meet with you and other officials at the Department of the Treasury and Internal Revenue Service to discuss the regulations implementing section 45J, and the approaches suggested in this letter, prior to publication of draft regulations by the Department of the Treasury.

**I. Nuclear Energy Industry Governance and
Process for Development of Industry Positions**

NEI is the organization responsible for establishing unified nuclear industry policies and positions on generic technical, regulatory, economic and financial matters. NEI members include all generating companies licensed to operate the 103 commercial nuclear power plants in the United States, and nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, and other organizations and individuals involved in the nuclear energy industry. The 103

¹ All section references are to the Internal Revenue Code of 1986, as amended, unless otherwise noted.

nuclear power plants in the United States represent approximately 13 percent of installed U.S. electric generating capacity (measured in kilowatts of capacity), but approximately 20 percent of U.S. electricity supply (measured in kilowatt-hours of output).

NEI formulates industry policy through Working Groups, Task Forces and Committees organized around key issues, with membership drawn from member companies with experience and expertise in the matter at hand. This governance structure provides a disciplined framework within which NEI and its member companies can ventilate policy issues, explore implementation options, and work systematically toward industry consensus.

These comments on the section 45J tax credits represent agreement among the majority of companies moving forward with new nuclear plant development. The issues associated with implementation of section 45J were debated within NEI's Task Force on New Nuclear Plants, which includes project development and business development executives from generating companies, nuclear reactor vendors and engineering/construction firms. Final agreement on all major issues — including a proposed method for allocating the 6,000 megawatts of capacity eligible for the section 45J tax credit — was obtained through NEI's New Plant Oversight Committee (NPOC). NPOC consists of the chief executives or chief nuclear operating officers of the companies that have declared their intention to develop applications for construction/operating licenses (COLs) for new nuclear power plants. NPOC is charged with establishing industrywide consensus on regulatory, financial and other significant policy issues associated with new nuclear plant development.

II. Summary of Section 45J Production Tax Credit

The 2005 Energy Policy Act added a new tax credit for production from an advanced nuclear power facility, intended to stimulate commercial deployment of new nuclear power plants sooner than would otherwise be the case. The new credit is a “business credit” modeled on the section 45 production credit for electricity produced from certain renewable resources.

The credit is available for an “advanced nuclear facility” that is placed in service after August 8, 2005, and before January 1, 2021. An advanced nuclear facility is defined in section 45J(d)(2) as:

any nuclear facility the reactor design for which is approved after December 31, 1993, by the Nuclear Regulatory Commission (and such design or a substantially similar design of comparable capacity was not approved on or before such date).

In its simplest form, the credit is the product of 1.8 cents and the kilowatt-hours of electricity produced during the eight-year period beginning the day the facility is

first placed in service and sold by the taxpayer to an unrelated person during the taxable year.²

For the producer of electricity from an advanced nuclear power facility to claim a credit, it must receive an allocation of the “national megawatt capacity limitation”³ (hereinafter “NML”). The NML is set by statute at 6,000 megawatts.⁴ The NML is to be allocated among plants “in such manner as the Secretary [of the Treasury] may prescribe.”⁵ The statute requires the Secretary of the Treasury to prescribe, not later than February 8, 2006, such regulations as may be necessary or appropriate to allocate the NML. The regulations are to “provide a certification process under which the Secretary, after consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation.”⁶

The amount of the credit allowed for any facility for any taxable year cannot exceed the amount that bears the same ratio to such amount of credit as the NML allocated to the facility bears to the total nameplate capacity of the facility.⁷ For example, if a facility with a nameplate capacity of 1,250 megawatts is allocated 1,000 megawatts, the credit is reduced by 20 percent. [$x = \text{calculated credit} = 1000/1250$. $x = 80$ percent of calculated credit, so the credit is reduced by 20 percent.]

In addition to the capacity limitation, the amount of a facility’s credit for any taxable year may not exceed an amount that bears the same ratio to \$125 million as the portion of the NML allocated to the facility bears to 1,000.⁸ For example, if the portion of the NML allocated to a facility is 800 megawatts, the maximum credit for any taxable year for such facility would be \$100 million, which is 800/1000 (or 80 percent) of \$125 million.⁹

III. Status of Industry Plans for New Nuclear Plant Construction

The process of licensing and building a new nuclear power facility is expected to take approximately nine years: Approximately two years to prepare an application to the NRC for a construction/operating license (COL); approximately three years for NRC review and approval of the COL, and approximately four years for construction.

The table below summarizes the status of industry plans for new nuclear plant construction in the United States. As the table shows, nine companies or groups of companies are developing applications for construction/operating licenses (COL), and intend to file those applications with the NRC in the 2007-2008 period. Those

² Section 45J(a).

³ See section 45J(b)(1).

⁴ Section 45J(b)(2).

⁵ Section 45J(b)(3).

⁶ Section 45J(b)(4). February 8, 2006, is the date that is six months after the date of enactment.

⁷ Section 45J(b)(1).

⁸ Section 45J(c)(1).

⁹ Joint Committee on Taxation Report, JCX-60-05 at page 35.

applications encompass at least 12, and perhaps as many as 19, new nuclear reactors.¹⁰

STATUS OF NEW NUCLEAR POWER PLANT DEVELOPMENT

| <i>Company</i> | <i>Site</i> | <i>Design</i> | <i>Number of Reactors</i> | <i>Date for Filing Application for Construction/Operating License</i> |
|-------------------------------|--------------------------------------|--------------------|---------------------------|---|
| Dominion ¹ | North Anna | ESBWR | 1 | 2007 |
| NuStart Energy ² | Bellefonte (TVA) | AP1000 | 2 | 2007 |
| NuStart Energy | Grand Gulf (Entergy) | ESBWR | 1 | 2007/2008 |
| Entergy | River Bend | ESBWR | 1 | 2008 |
| Southern Company | Vogtle | Not yet determined | 1-2 | 2008 |
| Progress Energy | One in the Carolinas, one in Florida | Not yet determined | 2-4 | 2007 |
| South Carolina Electric & Gas | Not yet determined | Not yet determined | 1-2 | 2007 |
| Duke Energy | In the Carolinas | AP1000 | 2 | 2008 |
| UniStar Nuclear ³ | Calvert Cliffs or Nine Mile Point | U.S. EPR | 1-4 | 2008 |

¹ This consortium includes Dominion, General Electric, Bechtel.
² NuStart Energy includes Constellation, Duke, EDF International North America, Entergy, Exelon, Florida Power & Light, General Electric, Progress, Southern, Tennessee Valley Authority, Westinghouse.
³ UniStar Nuclear is a joint venture of Constellation Energy and Areva

After accepting and docketing an application for a COL, NRC conducts an extensive review of the license application to ensure that the nuclear reactor proposed, at the site proposed, meets all NRC safety standards and other requirements.

Since this is a new licensing process¹¹, and since these will be the first new nuclear plants licensed by the NRC in several decades, the nuclear industry expects that the NRC’s COL review process will take approximately three years for the first reactors. (COL reviews for later, follow-on plants should be somewhat shorter, as the agency and the industry gain experience.) Assuming a three-year review period

¹⁰ Throughout these comments, the word “reactor” and “facility” are used interchangeably to mean an “advanced nuclear facility” as defined in section 45J.
¹¹ The 1992 Energy Policy Act codified a number of significant changes to the process under which the Nuclear Regulatory Commission licenses new nuclear plants, approves new nuclear reactor designs, and approves sites for new nuclear plant construction. In the simplest terms, the changes to the licensing process move all necessary regulatory approvals to the front-end of the process, before significant capital investment has occurred.

for the first COLs, NRC will complete its review and issue those licenses in the 2010-2011 period.

Approximately two years before receiving its COL, however, a company will generally begin the process of procuring long-lead equipment and components — including such items as reactor pressure vessels, steam generators, and large forgings.

After receipt of the COL, construction is expected to take approximately 48 months.¹² These construction durations are achieved routinely overseas.

Using these relatively conservative schedule assumptions, the “first wave” of new reactors — those that will apply for construction/operating licenses in the 2007-2008 time frame — are expected to receive their licenses and start construction in 2010-2011, and start commercial operation in 2014-2015.

IV. Principles That Should Govern Implementing Regulations

Although there are several subsidiary issues that must be addressed in implementation of section 45J, the nuclear industry believes that the most significant issue is developing a workable, equitable approach to allocating the 6,000-megawatt national capacity limitation.

The nuclear energy industry has identified four principles that should govern the regulations implementing section 45J and the certification process developed by the Department of Treasury to allocate the 6,000-megawatt capacity limitation. These principles advance the legislative intent of this provision, which is to stimulate investment in, and construction of, as many new nuclear power plants in the United States as possible, as quickly as possible.

IV. A. Criteria for Allocating Capacity Should be Straightforward, Objective and Unambiguous

Implementing regulations and the process of allocating capacity to facilities eligible for the production tax credit should be straightforward and transparent, using unambiguous trigger points to determine eligibility for the credit. Any criteria developed to allocate capacity among eligible facilities should be objective: Federal agencies should not, for example, be placed in the position of determining whether certain facilities are more likely to succeed than others before determining whether to allocate capacity to a facility. Such determinations would be inherently subjective, could lead to unnecessary disputes and litigation, and would not be acceptable to the nuclear energy industry. In addition, implementing regulations should strive to minimize the administrative burden on the federal agencies responsible for this tax credit program (*i.e.*, the section 45J program should be as

¹² From first safety-related concrete pour to loading of fuel and start of low-power, pre-commercial testing. Low-power testing is expected to take 3-6 months.

“self-implementing” as possible, consistent with the statutory requirements and legislative intent).

IV. B. Regulations Must Balance The Timing Between Corporate Decision-Making and Actual Use of the Credit

Companies will not receive production tax credits until a new nuclear power plant is in commercial operation. Long before commercial operation, however, companies will be seeking project approval from boards of directors and arranging construction financing. Decisions by corporate boards and lenders will depend on whether or not the facility in question will receive an allocation of capacity under section 45J. To address this timing issue and provide certainty to project developers and investors, the nuclear energy industry recommends that the Department of the Treasury establish a “pool” of facilities eligible for an allocation of capacity. Each facility in the “pool” would be guaranteed an allocation if it receives its construction/operating license and starts construction on or before a date certain, as discussed in more detail below.

IV. C. Regulations Must Provide Certainty With Respect To An Allocation

When they have received an allocation of capacity for an advanced nuclear energy facility, project developers must be certain that the allocation will not decrease. Project developers will evaluate the economic potential and financial strength of a project based on a reasonable expectation of receiving a certain allocation of capacity. Approaches that would reduce that allocation would create uncertainty, make evaluation of project economics more difficult, and frustrate the legislative intent.

For similar reasons, project developers need to know what their minimum allocation will be well in advance of when construction begins, and must have assurance that their minimum allocation will not be reduced.

IV. D. Regulations Should Distribute Allocable Capacity and Tax Credits Broadly Among A Larger Number of Projects, Rather Than Reserve Capacity Narrowly For The First Projects

It is impossible to predict precisely how many nuclear reactors will be built as part of the “next wave” of nuclear reactor construction in the United States. Based on public announcements and letters of intent filed with the Nuclear Regulatory Commission (NRC), however, nine companies, joint ventures and consortia intend to file applications for construction/operating licenses with the NRC in the 2007-2008 timeframe. Those applications could encompass construction of 12-19 nuclear reactors, at least initially.

The nuclear industry believes that the 6,000 megawatts of capacity should be allocated among all reactors likely to form part of the “first wave” of new nuclear plant construction, based on the methodology outlined below. The alternative —

allocating that capacity to just the first four or five or six new reactors that enter commercial operation or that are selected pursuant to some set of subjective criteria — would not achieve industrywide equity, and would not fully realize the legislative intent of section 45J, which is to stimulate investment in, and construction of, as many new nuclear power plants in the United States as possible, as quickly as possible. Providing full allocations (*i.e.*, allocations equal to the nameplate capacity of reactors) to a small number would only make sense if a nuclear facility would be economically viable only with a full allocation. The industry believes that — taking into account the growing demand for electricity, the other incentives provided in the Energy Policy Act of 2005, and the economics of new nuclear capacity — partial allocations to the “first wave” of new plants would provide sufficient stimulus to make those plants economically viable.

V. Industry Consensus on Process for Allocating The National Capacity Limitation

Based on extensive discussions within NEI’s governance, the nuclear energy industry proposes a straightforward approach to allocation of the 6,000 megawatts of capacity. The process is a two-step approach: Eligibility for an allocation is the first step; effectiveness of the allocation is the second step. Specifically:

1. *Eligibility:* All reactors that have a docketed application for a construction/operating license (COL) filed with the NRC on or before December 31, 2008, would be eligible for an allocation. All reactors with a COL filed and docketed by December 31, 2008 would qualify for a place in a “pool” of facilities eligible for an allocation. (If applications aggregating less than 6,000 megawatts have been docketed with the NRC on or before December 31, 2008, the December 31, 2008, eligibility date could be extended until the date when COL applications aggregating 6,000 megawatts or more have been docketed.) The regulations implementing section 45J should require that a sponsor has submitted a COL application that the NRC accepts as sufficient for docketing, rather than an application submitted but subsequently deemed insufficient for review by the NRC. This approach would eliminate companies that file a COL simply to reserve a place in the “pool.” By July 1, 2009 (six months after the December 31, 2008, deadline), the Treasury Department would publish a list of how large an allocation each facility in the “pool” would expect to receive, if all reactors in the “pool” move forward with construction, and the allocations are made in proportion to the expected nameplate capacities of the facilities in the pool. This would be a “conditional” or “tentative” minimum allocation that will not be reduced if the project developer receives its construction/operating license and starts construction by a date certain.

2. *Effectiveness*: Each reactor that has received a COL from the NRC and started construction on or before December 31, 2012,¹³ would receive a firm allocation of capacity from the Department of Treasury. This second step would be the “certification” process referred to in the statutory language. If more than 6,000 megawatts of capacity have received COLs and started construction before December 31, 2012, the 6,000-megawatt capacity limitation would be allocated *pro rata* among all eligible facilities.¹⁴ The industry believes the regulations implementing section 45J should define commencement of construction in a clear and unambiguous way, so that allocations are provided only to those projects that have made an irrevocable decision to proceed with construction.

The nuclear industry believes that “start of construction” should be defined as pouring of safety-related concrete (for the basemat for the reactor building). Coupled with receipt of the COL, pouring of safety-related concrete represents a firm commitment to plant construction. Given the degree of organization and commitment that sponsors would undertake to reach the point at which they pour safety-related concrete—including early site preparation and ordering of long-lead equipment—this approach would further the intent of the legislation by ensuring that only “real” projects with a high likelihood of achieving commercial operation receive an allocation.

The regulations should provide sufficient flexibility to protect a facility against loss of an allocation owing to circumstances beyond its control. Consider this example: A facility has a COL docketed with the NRC before December 31, 2008; receives a “conditional” or “tentative” allocation of capacity from the Department of Treasury on the basis of having met that first deadline; then encounters significant delay in NRC review of its COL and does not receive its COL by December 31, 2012, and is thus not able to start construction. That facility should not forfeit its “conditional” allocation since its inability to meet the second December 31, 2012, deadline to firm up allocations was caused by factors beyond its control.

On the other hand, the regulations should also provide for a situation in which a facility receives its COL on or before December 31, 2012, but the project sponsor chooses not to proceed promptly with construction, or subsequently abandons or terminates the project or suspends construction for an extended period (*e.g.*, 180-360 days) for reasons other than regulatory or litigation delays or force majeure.

¹³ The majority of companies developing applications for construction/operating licenses indicate a preference for the December 31, 2012, date for “certification” of allocations. This preference reflects a belief that the Section 45J credit is designed to encourage “first movers” and accelerate the process of new nuclear plant deployment. Several companies would, however, prefer a later date — December 31, 2013, for example. These companies are concerned that the NRC’s new licensing process is untested and may be subject to unanticipated delays. Given the fact that the licensing process is untested, it may, therefore, take longer than expected to receive approval for a construction/operating license, even if the license application was filed on or before the December 31, 2008, eligibility date.

¹⁴ Assume, for example, that 15,000 megawatts of new nuclear generating capacity has received construction/operating licenses from the NRC and started construction. A 1,150-megawatt facility would, therefore, receive an allocation for 460 megawatts from the 6,000 megawatts of capacity available for allocation: $1,150/15,000 \times 6,000 = 459.99$.

That allocation should then be reallocated to those facilities that have started construction by December 31, 2012.

The regulations should also provide sufficient flexibility to allow an allocation of capacity to two facilities at the same site, even though the two facilities will be built in series rather than simultaneously. Many companies plan to submit applications for COLs that contemplate construction of a twin-unit nuclear power station. Start of construction on the second reactor would begin after start of construction on the first reactor. As long as safety-related concrete for both units was poured by the December 31, 2012, certification date, the implementing regulations should recognize that two facilities have met the requirement for an allocation (receipt of a COL and start of construction). Both facilities would, therefore, be eligible for an allocation of capacity from the 6,000-megawatt national limitation.

VI. Allocation Approaches That Were Judged Unacceptable

In the course of exploring various approaches to allocating the national megawatt limitation, the nuclear energy industry considered (and rejected) several other potential approaches. These other options included:

1. *Allocating the 6,000 megawatts of capacity to the first facilities to reach some predetermined threshold (e.g., docketing of a COL application, receipt of a COL and start of construction, or start of commercial operation).* This approach would tend to limit the number of facilities eligible for an allocation of capacity, and was rejected for that reason. In addition, this approach does not provide certainty as to whether a facility would actually receive the production tax credit, and would not therefore provide the stimulus intended by the Energy Policy Act. The nuclear energy industry would prefer an allocation process in which credits are distributed more broadly among all facilities likely to form the “first wave” of new nuclear plant construction.
2. *Allocating the 6,000-megawatt national limitation on a rolling basis, and thus reallocating the 6,000-megawatt limitation periodically, as new nuclear reactors achieve commercial operation (or some other predetermined threshold).* Under this approach, each facility would receive a minimum allocation based on eligibility¹⁵. Not all eligible facilities would start commercial operation in the same year, however, so the first facilities to start commercial operation would receive a higher allocation (either up to their total nameplate capacity rating or *pro rata* if more than 6,000 megawatts of capacity are operating) than their minimum allocation. As more and more eligible facilities reach commercial operation, allocations for these early facilities would be reduced progressively down to their minimum allocation. The industry rejected this approach because it tends to place

¹⁵ Eligibility is determined by having an application for a construction/operating license docketed on or before December 31, 2008.

later eligible units at a disadvantage and does not, therefore, achieve an equitable distribution of the finite Section 45J tax credit available (6,000 megawatts times 8 years times \$125 million/year/1,000 megawatts of capacity).

3. *Allocating the 6,000-megawatt national limitation in two phases.* Under this approach, the Department of Treasury would hold some portion of the 6,000-megawatt national limitation (3,000 megawatts, for example) in reserve, and allocate that capacity in a second round of allocations at a later time. The industry rejected this approach because it does not meet the legislative intent of stimulating investment in as much new nuclear generating capacity as possible, as quickly as possible.

VII. Other Technical Issues and Questions and Proposed Resolutions

In the process of analyzing the statutory language and developing an equitable and effective allocation system, the nuclear energy industry identified several technical issues and questions about the workings of the credit. Some of those issues and questions are discussed below. As the discussion below indicates, some of the issues are directly or indirectly related to the allocation of the NML and may need to be resolved in connection with the establishment of allocation procedures. The industry hopes that the Department of the Treasury will provide regulatory guidance on these issues.

Issue 1: Base year of inflation indexing for the parameter for phase out.

Section 45J, as amended by the Gulf Opportunity Zone Act of 2005, reduces the 1.8 cents per kilowatt-hour credit rate for a year if the average annual contract price per kilowatt of electricity produced from advanced nuclear power facilities in the preceding year exceeds 8 cents per kilowatt-hour. Section 45J(c)(2)(B) adjusts the 8-cent amount for inflation, but it is unclear what the base year is for indexing. The 8-cent amount was derived from the section 45 credit for energy produced from renewable resources and section 45J(c)(2)(B) includes a cross-reference to section 45. The base year for indexing the 8-cent amount in section 45 is 1992. Footnote 47 to the Joint Committee on Taxation Report (JCX-60-05) on the tax provisions in the Energy Policy Act of 2005 indicates that the base year for indexing is 1992. The industry believes that 1992 should be the base year for indexing.

Issue 2: "Substantially similar"

An advanced nuclear facility is defined in section 45J(d)(2) as "any nuclear facility the reactor design for which is approved after December 31, 1993, by the Nuclear Regulatory Commission (and such design or a substantially similar design of comparable capacity was not approved on or before such date)." A similar definition of "advanced nuclear facility" appears in Section 638(a)(1) of the Energy Policy Act of 2005, which provides standby support for certain nuclear plant delays. The industry recommends that the phrase, "substantially similar design of comparable

capacity,” be treated as having the same meaning for tax law purposes as it does for purposes of Section 638 of the Energy Policy Act of 2005. Four nuclear reactor designs are potential candidates for commercial deployment in the U.S. and could be eligible for Section 45J tax credits. None of these was approved before December 31, 1993, by the Nuclear Regulatory Commission. None are “substantially similar” or are of “comparable capacity” to designs approved before December 31, 1993. All have distinct design features that make them substantially different from reactors designs approved for construction and commercial operation in the United States before December 31, 1993. (See Appendix I for a more detailed description of the four new reactor designs that are candidates for commercial deployment.) Given these facts, the nuclear industry believes the implementing regulations for Section 45J should simply presume that any advanced nuclear energy facility that meets the criteria for an allocation (*i.e.*, docketing of a COL application on or before December 31, 2008; COL receipt and start of construction on or before December 31, 2012) is presumed to meet the definition of “advanced nuclear energy facility” and is automatically eligible for an allocation.

Issue 3: Subsidized financing cutback

The Joint Committee on Taxation report on the tax provisions in the Energy Policy Act of 2005 states that the amount of advanced nuclear production credit available to each producer-taxpayer “is reduced by reason of grants, tax-exempt bonds, subsidized energy financing, and other credits.”¹⁶ The text of section 45J contains no such limitation.

A cutback for the advanced nuclear production credit similar to the one in section 45(b)(3) for certain grants, subsidies and other credits is illogical in the context of the other limitations on the nuclear production credit. Unlike the renewable energy production tax credit, the advanced nuclear production credit is subject to a national limitation. Given the 6,000-megawatt national limitation, it is likely that the NML allocated to each facility will be less than the total megawatt nameplate capacity of such facility. It would be illogical to have a portion of the limited credit then further erased (“cut back”) because the facility received subsidized energy financing. For example, if the Secretary were to allocate 550 megawatts of NML to an advanced nuclear production facility with a nameplate capacity of 1,000 megawatts and that facility was expected to be 45% financed through energy production subsidies and grants, the section 45(b)(3) cutback rule in substance would result in a 45% cutback of the already cut-back 550 megawatt allocation to 302.5 megawatts. This second 247.5 megawatt cutback would occur at the taxpayer level and, therefore, would not be available for reallocation to another facility by the Secretary. Moreover, limiting the amount of credit either through limiting the initial allocation or through cutback would be inconsistent with the principles for allocation and the straightforward approach of *pro rata* allocation discussed above.

¹⁶ Joint Committee on Taxation Report, JCX-60-05 at page 36.

The industry believes that any cutback or limitation is inconsistent with the goals of the Energy Policy Act of 2005, which provides various incentives without any indication that they cannot or should not overlap. The language in the Joint Committee Report is probably an inadvertent carryover from a prior version of a proposed nuclear production credit considered by a previous session of Congress, which did include a cutback.

Issue 4: Applicability of the Annual Facility Limitation

It is fairly common for taxpayers to own undivided interests in electric generation facilities. Questions will arise as to how statutory language should be interpreted in the case of facilities with multiple owners. For example, section 45J limits the credit “with respect to a facility” for any taxable year to an amount that bears the same ratio to \$125 million as the portion of the NML allocated to the facility bears to 1,000.¹⁷ However, the credit is assigned to taxpayers and not facilities and certain sales (those to related persons) are not eligible for the credit. Suppose that a 1,000-megawatt facility with two 50% owners received a 1,000-megawatt allocation. Could one owner claim a \$65 million credit if the other owner claimed only a \$60 million credit?

The industry recommends that each undivided interest in a facility be treated as a separate facility for purposes of the annual facility limitation. If this approach is applied to the preceding example, each owner would be treated as having received a 500-megawatt allocation and would have a \$62.5 million annual credit limitation.

Issue 5: Sales to “Unrelated Persons”

Section 45J provides that the production credit is to be based on “the kilowatt-hours of electricity produced during the eight-year period beginning the day the facility is first placed in service and sold by the taxpayer to an unrelated person during the taxable year.” Depending on the corporate structure, the facility owner and the entity that markets or sells the output of the facility may be brother-sister corporate subsidiaries sharing the same ultimate corporate parent, or they may be father-daughter corporations. In those cases, the facility owner would not itself meet the statutory requirement of selling electricity to an unrelated person as found in Section 45J(a)(2)(B) without the application of 45(d)(4) (which is made applicable by Section 45J(e)). The regulations should expressly provide that, in such a case, the sale of the output of the facility to an unrelated third party should be considered a sale to an “unrelated person,” thereby allowing the facility owner to claim the credit provided by Section 45J, notwithstanding that one or more inter-affiliate transactions preceded the requisite sale to an unrelated person. Such a regulation would be consistent with the definition of “related persons” in section 45(d)(4) of the Internal Revenue Code which provides that “[i]n the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling electricity to an

¹⁷ Section 45J(c)(1).

unrelated person if such electricity is sold to such person by another member of such group.”

VIII. Conclusion

The nuclear energy industry recommends that the tax credit under section 45J be implemented in a way that is consistent with its purpose — stimulating commercial deployment of new nuclear power plants. This goal can be achieved if the Department of the Treasury promulgates rules that (i) provide certainty as soon as possible so as to facilitate decision-making with respect to prospective nuclear facilities, (ii) maximize the use of the national megawatt capacity limitation, and (iii) result in an equitable and objective allocation of the national megawatt limitation. The industry believes that the proposed method of allocation described above meets these criteria and strongly encourages the Department of the Treasury and the Internal Revenue Service to give careful consideration to the industry’s proposal.

We anticipate that you will have questions about our proposal or about variations that you may be considering. We would appreciate an opportunity to answer your questions and to discuss our comments with you and officials of the Internal Revenue Service. We will call you in a few days to schedule a meeting. In the meantime, if you have any questions about these comments or other matters relating to the implementation of the section 45J credit, please contact me at 202.739.8021 or at rjm@nei.org.

We appreciate the opportunity to provide comments on the implementation of the credit and thank you in advance for considering our comments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard J. Murray". The signature is written in a cursive, flowing style with a large initial "R".

Appendix I

STATUS OF ADVANCED NUCLEAR POWER PLANT DESIGNS

| <i>Design</i> | <i>Supplier</i> | <i>Background and Current Status</i> |
|--|---|---|
| Advanced Boiling Water Reactor | General Electric | This large (1,350 MW) boiling water reactor is an evolutionary improvement on the boiling water reactors that make up approximately one-third of the U.S. nuclear power plant fleet. The first models of this design were deployed commercially by Tokyo Electric Power Co. at its Kashiwazaki-Kariwa generation station in Japan. TEPCO and other Japanese utilities continue to build ABWRs. In the United States, the Tennessee Valley Authority has completed an assessment of the economic feasibility of building an ABWR at its Bellefonte site, but has no firm plans to move forward. This design was certified by the NRC in 1997. |
| AP1000 | Westinghouse | The AP1000 is a larger (1,150 MW) version of the AP600, a mid-sized (600 MW) reactor and the first approved by the NRC to employ so-called “passive” safety features. The passive designs substitute natural forces like gravity to deliver cooling water to the reactor. The improved design eliminates a number of the pumps, valves, piping and other components that increase the complexity and the capital cost of today’s nuclear plants. The AP600 was certified by the NRC in 1999. Westinghouse found that the AP600 was not large enough to be competitive in today’s electricity markets, and has increased the size of the plant and changed the name to the AP1000. The AP1000 also employs “passive” safety features. The AP1000 is the design being offered by Westinghouse for new reactor construction in the United States and is also the basis for Westinghouse’s bid to build four reactors in China. The AP1000 received its final design approval from the NRC in late 2004, and its design certification in December 2005. |
| ESBWR | General Electric | The ESBWR is GE’s new design incorporating “passive” safety features. By simplifying the design of the ESBWR compared to the ABWR, GE expects to reduce the capital cost of the plant by approximately 20 percent. The ESBWR (1,500 MW) is GE’s commercial offering for the U.S. market, and is the technology of choice for the consortium led by Dominion Resources, which would build the plant at its North Anna site in Virginia. The ESBWR has also been selected by the NuStart consortium and Entergy, which will build at Entergy’s Grand Gulf Station in Mississippi and at Entergy’s River Bend Station in Louisiana. GE filed its application for design certification with the NRC in August 2005, and hopes for design certification in 2008. |
| EPR | Areva (in the U.S. market: UniStar, a joint venture of Areva and Constellation) | The U.S. EPR is the U.S. version of the EPR, which is a large (1,600 MW) design developed by Areva, the reactor supplier formed by Framatome (France) and Siemens (Germany). Areva has formed a joint venture with Constellation Energy Group called UniStar Nuclear to deploy the EPR technology in the United States. The first EPR is now being built in Finland, and it will be the next generation of nuclear plants built in France by Electricite de France. The EPR is an advanced light water reactor. The EPR design includes additional safety features not in today’s light water reactors, including four safety trains instead of two, bunkered safety systems, double containments, and additional severe accident management features. In the U.S., UniStar plans to obtain design certification for the EPR as part of its first application for a construction/operating license (COL) in 2008. |
| <p><i>Note: All of the nuclear reactor designs described above meet the statutory definition of “advanced nuclear energy facility” in Section 45J: “any nuclear facility the reactor design for which is approved after December 31, 1993, by the Nuclear Regulatory Commission (and such design or a substantially similar design of comparable capacity was not approved on or before such date).”</i></p> | | |