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December 17, 2007

DOCKETED  
USNRC

**VIA RULEFORUM**

December 18, 2007 (9:59am)

Ms. Annette L. Vietti-Cook  
Office of the Secretary  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

**Re: "Consideration of Aircraft Impacts for New Nuclear Power Reactor Designs; Proposed Rule," 72 Fed. Reg. 56,289 (Oct. 3, 2007)**

Dear Ms. Viette-Cook:

We appreciate the opportunity to submit comments on the above-referenced proposed rulemaking. In that rulemaking, the NRC proposes to amend its regulations to require certain applicants to assess the effects of the impact of a large, commercial aircraft on a nuclear power plant. Our comments focus on aspects of the proposed rulemaking that require clarification to better understand the effect of the proposal on the finality of licensing reviews and adjudicatory proceedings.

The NRC should clarify the form and effect of its review of the assessment and the evaluation required by the proposed rule. In particular, the NRC should clarify that its review of the evaluation, including the insights drawn by the applicant from the assessment in preparing the evaluation, is part of the design certification rulemaking. The NRC should also clarify that the acceptability of the evaluation and the effectiveness and practicability of the design and other features adopted to avoid or mitigate, to the extent practicable, the potential effects of the applicable, beyond-design-basis aircraft impact are considered resolved for subsequent COL applications referencing the certified design.

The NRC should also clarify that contentions on the adequacy of the assessment or the evaluation (including contentions that seek to raise potential design features, functional capabilities, or strategies not selected by individual applicants for inclusion in the certified design) will not be entertained in individual proceedings for COLs that reference a certified design subject to proposed 10 C.F.R. § 52.500. Instead, a person who seeks action with respect to a proposed standard design certification on the basis that the impact assessment or evaluation is inadequate could submit comments in the notice and comment phase of the design certification rulemaking.

Template = SECY-067

SECY-02

Ms. Viette-Cook  
December 17, 2007  
Page 2

If you have any questions regarding these comments, please contact Tyson Smith  
at (202) 282-5756.

Sincerely,

A handwritten signature in black ink that reads "David A. Repka". The signature is written in a cursive style with a long horizontal line extending to the right.

David A. Repka

**From:** <no-reply@erulemaking.net>  
**To:** <secy@nrc.gov>  
**Date:** Mon, Dec 17, 2007 4:47 PM  
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Public Comments on Consideration of Aircraft Impacts for New Nuclear Power Reactor Designs:=====

Title: Consideration of Aircraft Impacts for New Nuclear Power Reactor Designs  
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Submitter Info:

First Name: David  
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Mailing Address: 1700 K St. NW  
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Country: United States  
State or Province: DC  
Postal Code: 20006  
Organization Name: Winston & Strawn LLP

Comment Info: =====

General Comment: Please find the attached comments from Winston & Strawn regarding the aircraft impacts proposed rule (RIN 3150?AI19). If you have any questions, please contact Tyson Smith at trsmith@winston.com or (202) 282-5756.

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