

RULEMAKING ISSUE NOTATION VOTE

October 27, 2010

SECY-10-0142

FOR: The Commissioners

FROM: R. W. Borchardt
Executive Director for Operations

SUBJECT: PROPOSED RULE: U.S. ADVANCED BOILING WATER REACTOR
AIRCRAFT IMPACT DESIGN CERTIFICATION AMENDMENT
(RIN 3150-AI84)

PURPOSE:

The purpose of this paper is to request Commission approval to publish for public comment a proposed rulemaking that would certify an amendment to the U.S. Advanced Boiling Water Reactor (ABWR) standard plant design to comply with Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, Section 50.150, "Aircraft Impact Assessment." The staff is also requesting Commission endorsement of the staff's recommended approach for treating multiple suppliers of a single certified design in both the case of the STPNOC amendment and generically. This paper does not address any new commitments.

SUMMARY:

The U.S. Nuclear Regulatory Commission (NRC) staff seeks the Commission's approval of proposed amendments to the regulations in Appendix A, "Design Certification Rule for the U.S. Advanced Boiling Water Reactor," to 10 CFR Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants," to comply with 10 CFR 50.150. This action is necessary so that applicants or licensees intending to construct and operate a U.S. ABWR may comply with 10 CFR 50.150 by referencing the amended design certification rule. The applicant for certification of the amendment to the U.S. ABWR design is the STP Nuclear Operating Company (STPNOC).

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BACKGROUND:

STPNOC submitted an application for amendment of the U.S. ABWR standard design to comply with the requirements of 10 CFR 50.150 (the aircraft impact assessment (AIA) rule) on June 30, 2009 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML092040048 (public version)). STPNOC submitted this application in accordance with 10 CFR 52.63, "Finality of Standard Design Certifications," which provides criteria for determining when the Commission may modify the certification information for a previously certified standard design in response to a request for amendment from any person. STPNOC submitted its final revision to the amendment application on September 23, 2010 (ADAMS Accession No. ML102770376). STPNOC proposed several changes to the certified U. S. ABWR design to comply with 10 CFR 50.150, including the addition of an alternate feedwater injection system, the addition and upgrading of fire barriers and doors, and the strengthening of certain structural barriers. The NRC staff completed its review of the amendment to the U.S. ABWR standard design and issued its final "Safety Evaluation Report for the STP Nuclear Operating Company Advanced Boiling Water Reactor Amendment to the Design Certification," dated October 14, 2010 (ADAMS Accession No. ML102710198).

On June 12, 2009 (74 FR 28112), the NRC amended its regulations to require applicants for new nuclear power reactor designs to perform a design-specific assessment of the effects of the impact of a large, commercial aircraft. The new provisions in 10 CFR 50.150 require applicants to use realistic analyses to identify and incorporate design features and functional capabilities to ensure, with reduced use of operator actions, that (1) the reactor core remains cooled or the containment remains intact, and (2) spent fuel cooling or spent fuel pool integrity is maintained. These requirements apply to various categories of applicants, including applicants for combined licenses (COLs) that reference a standard design certification that was issued before the effective date of the rule and that has not been amended to comply with the rule. These COL applicants can comply with 10 CFR 50.150 by requesting an amendment to the certified design, or addressing the requirements of 10 CFR 50.150 directly in their COL applications. STPNOC submitted an application for a COL on September 20, 2007 (ADAMS Accession No. ML072830407). STPNOC has requested this amendment to the U.S. ABWR certified design to address the requirements of 10 CFR 50.150.

On May 17-21, 2010, the staff conducted an inspection of STPNOC's AIA performed in support of its proposed amendment to the U.S. ABWR design. On August 13, 2010, the staff issued a Severity Level IV Notice of Violation (NOV) to STPNOC for failing to use realistic analyses for certain aspects of its AIA and failing to fully identify and incorporate those design features and functional capabilities credited in the AIA into the design. With the exception of the issues identified in the NOV, the staff concluded that the AIA complies with the applicable requirements of 10 CFR 50.150.

STPNOC submitted its response to the NOV on September 13, 2010 (ADAMS Accession No. ML102590073). On September 22, 2010, the staff replied to STPNOC that it had found STPNOC's letter generally responsive to the findings described in the NOV (ADAMS Accession No. ML102640660). However, the staff requested that certain aspects of the response be addressed in further detail. On September 29, 2010, STPNOC submitted a letter containing the additional details requested by the staff (ADAMS Accession No. ML102850361). The staff has reviewed these additional details and found them acceptable. The staff has no outstanding issues from the inspection of the STPNOC AIA.

DISCUSSION:*Staff Review of STPNOC U.S. ABWR Amendment Application*

The NRC's review of the applicant's proposed amendment to the U.S. ABWR design confirmed that the applicant has complied with 10 CFR 50.150. Specifically, the staff confirmed that the applicant adequately described key AIA design features and functional capabilities in accordance with the AIA rule and conducted an assessment reasonably formulated to identify design features and functional capabilities to show, with reduced use of operator action, that the facility can withstand the effects of an aircraft impact. In addition, the staff determined that there will be no adverse impacts from complying with the requirements for consideration of aircraft impacts on conclusions reached by the NRC in its review of the original U.S. ABWR design certification. Finally, the staff determined that STPNOC and its contractors are technically qualified to perform the design work associated with the amended portion of the U.S. ABWR design represented by STPNOC's application and to supply the amended portion of the U.S. ABWR design. STPNOC's amendment to the U.S. ABWR design has achieved the Commission's objectives of enhanced public health and safety and enhanced common defense and security through improvement of the facility's inherent robustness at the design stage.

STPNOC U.S. ABWR Amendment Approach

When the Commission decided to approve standard reactor designs by rulemaking, as opposed to licensing, in the 1989 Part 52 rulemaking, it stated that a design certification rule "does not, strictly speaking, belong to the designer." See 73 FR 15375; April 18, 1989 (third column). Nonetheless, the Commission implicitly recognized the need to protect the commercial and proprietary interests of the original applicant who intends to supply the certified design, should there be another possible entity who intends to use the design in some fashion without approval or compensation to the original design certification applicant. *Id.* The Commission did not describe, in either the 1989 rulemaking or in the Statements of Consideration for that rulemaking, the particular regulatory approach and structure to be used for a design certification rule with two or more suppliers¹ of the certified design. In the years after the 1989 Part 52 rulemaking, the Commission did not need to address the circumstance of multiple suppliers of the same certified design ("multiple suppliers") to an end user.² However, with the filing of the U.S. ABWR design certification amendment request by STPNOC, as well as Toshiba's March 3, 2010, letter to the NRC stating that it intends to seek renewal of the U.S. ABWR design certification (ADAMS Accession No. ML100710026), the NRC must now determine the regulatory approach and structure for the amendment (and, for completeness, the renewal) of a certified design where there will be multiple suppliers.

When the staff was advised of STPNOC's intent to submit an amendment of the U.S. ABWR design certification, the staff began a process of identifying and considering possible regulatory

¹ The term, "supplier," reflects the staff's view that such entities are different from a "vendor" who supplies a system or component, or services related to that system or component, to a "user" such as an applicant for or holder of a COL.

² The term, "user," means an entity which references the standard design certification rule in its application, and the holder of a permit or license which incorporates the standard design certification.

alternatives, with the goal of recommending to the Commission a single regulatory approach and structure to be used for all design certifications with multiple suppliers. The staff identified three alternatives that the NRC could reasonably select:

- Separate rules: Develop separate design certification rules for each supplier.
- Branches: Develop one design certification rule with multiple branches; with each branch describing a complete design to be supplied by each supplier.
- Options: Develop one design certification rule with options; with each option describing a portion of the certified design which may be selected by the user as an option to the original “reference” certified design.

Table 1 of Enclosure 1 presents the staff’s current views with respect to the differences between these three alternatives.

Based upon the staff’s assessment of the differences between these three alternatives, the staff recommends that, as an overall approach, the Commission adopt the “branches” alternative to be used in cases for design certifications with multiple suppliers, with consideration given to limited use of the “options” approach in the case of certain limited-scope design certification amendments, as in the case of the STPNOC amendment to comply with the AIA rule.

During discussions with STPNOC about the processing of its request to amend the U.S. ABWR design certification, STPNOC proposed that the staff adopt a process akin to the “options” approach for the STPNOC U.S. ABWR amendment. STPNOC stated that its request was based upon a number of factors which it considered to be unique to its situation. STPNOC requested that it be considered the supplier for only that portion of the U.S. ABWR design certification necessary to comply with the AIA rule, and which is the subject of the amendment proceeding. Under this approach, STPNOC need not be qualified to supply the complete U.S. ABWR design nor would it be required to provide acceptable substitutes for the proprietary information developed by GE Nuclear Energy (GE) (as it would under the “branches” approach).

Upon consideration, the staff is recommending that the Commission use the “options” approach for the STPNOC amendment of the U.S. ABWR design certification. The staff’s recommendation is based upon the following considerations. As with the “branches” alternative, there is no statute or NRC regulation prohibiting the use of the “options” approach. Nor is there any provision which prohibits the concurrent use of both alternatives – so long as the NRC is able to articulate a basis for doing so. Moreover, all of the staff’s safety and regulatory objectives are met. STPNOC is providing sufficient information to determine its technical qualifications to supply the STPNOC-sponsored amendments addressing the AIA rule to third party users (i.e., users other than STPNOC itself). In addition, the staff believes that there are no insurmountable issues in requiring the user (in most cases, the COL applicant referencing the U.S. ABWR and the STPNOC option) to prepare a single design control document (DCD) integrating information from both the DCD developed by GE and the DCD developed by STPNOC. The “options” approach also avoids or addresses all of STPNOC’s concerns with the use of the “branches” alternative for its request to amend the U.S. ABWR. STPNOC would not have to develop and submit to the NRC information equivalent to the proprietary information developed by GE to support the STPNOC amendment application. Nor does STPNOC have to

demonstrate its technical qualifications to supply the entire U.S. ABWR certified design; it would only have to demonstrate its technical qualifications to supply the STPNOC option. STPNOC has indicated that Toshiba will prepare an application for renewal of the U.S. ABWR design certification (with Toshiba being the renewal applicant) which reflects the “branches” approach. That application is likely to be submitted by the end of 2010. Thus, the STPNOC option would have a limited period of effectiveness, that is, until the renewal of the U.S. ABWR design certification. Finally, the “options” approach fully protects the legitimate proprietary and commercial interests of GE in the original U.S. ABWR design certification.

After considering STPNOC’s proposal and the bases for its request, the staff recommends that the Commission adopt the “options” alternative for the STPNOC amendment of the U.S. ABWR design certification, but that the “branches” alternative be regarded as the “default” for all renewals of design certifications and for major design certification amendments. If the staff receives other limited-scope design certification amendments (similar in scope to the STPNOC amendment request), it will consider whether the “branches” approach or the “options” approach offer the most effective and efficient regulatory alternative at that time based on the scope of the amendment and the specific circumstances associated with the particular application.

By implementing the “options” approach for the STPNOC U.S. ABWR amendment, a COL applicant that references the U.S. ABWR standard design certification can meet the requirements of the AIA rule by referencing both the GE DCD and the STPNOC DCD or by referencing only the GE DCD and addressing the requirements of the AIA rule separately in its COL application.

Technical Qualifications

The staff is proposing to add a new paragraph A.4 to Section IV, “Additional Requirements and Restrictions,” of Appendix A to 10 CFR Part 52. Proposed paragraph A.4 would indicate requirements that must be met in cases where the COL applicant is not using the entity that originally applied for the design certification (or amendment) to supply the design for the applicant’s use. Proposed paragraph A.4.a would require a COL applicant referencing Appendix A to demonstrate, as part of its application, that an entity other than GE is qualified to supply the U.S. ABWR certified design unless GE supplies the design for the applicant’s use. Proposed paragraph A.4.b would require that a COL applicant referencing the STPNOC certified design option demonstrate, as part of its application, that an entity other than STPNOC and Toshiba American Nuclear Energy (TANE) acting together is qualified to supply the STPNOC certified design option, unless STPNOC and TANE acting together supply the design option for the applicant’s use. In cases in which a COL applicant is not using GE to supply the U.S. ABWR certified design, or is not using STPNOC and TANE acting together to supply the STPNOC certified design option, this information is necessary to support any NRC finding under 10 CFR 52.73(a) that an entity other than the one that originally sponsored the design certification or design certification amendment is qualified to supply the certified design or certified design option.

Under 10 CFR 52.47(a)(7), a design certification applicant must demonstrate, as part of its application, that it is technically qualified to engage in the proposed activities (e.g., to supply the design work associated with the amended portion of the U.S. ABWR design represented by STPNOC’s application and to supply the amended portion of the design). Based on the staff’s

review of the STPNOC application to amend the U.S. ABWR certified design, the staff determined that it cannot find that STPNOC, by itself, is technically qualified to engage in the proposed activities. However, the staff determined that it can find that STPNOC and TANE acting together are qualified to supply the amended portion of the U.S. ABWR design certification represented in the STPNOC DCD. Therefore, the staff is adding paragraph A.4.b to ensure that the basis for an NRC finding of technical qualification in support of this design certification amendment remains valid.

Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information

The staff is proposing to revise paragraph E of Section VI, "Issue Resolution," of Appendix A to 10 CFR Part 52, which describes the procedure that an interested member of the public must follow to obtain access to sensitive unclassified non-safeguards information (including proprietary information) (SUNSI) and safeguards information (SGI) for the U.S. ABWR design to request and participate in proceedings that involve licenses and applications that reference the U.S. ABWR design. The staff is proposing to replace the current information in paragraph E with a statement that the NRC will specify, at an appropriate time, the procedure that interested persons must follow to review SGI or SUNSI, for the purpose of participating in the hearing required by 10 CFR 52.85, "Administrative review of applications; hearings," the hearing provided by 10 CFR 52.103, "Operation under a combined license," or any other proceeding related to Appendix A to 10 CFR Part 52 in which interested persons have a right to request an adjudicatory hearing. Note that for the COL application submitted by STPNOC in 2007, the procedures governing access to SUNSI and SGI for the STPNOC amendment of the U.S. ABWR design certification will be controlled by the Commission's access order published as part of the Notice of Order, Hearing, and Opportunity to Petition for Leave to Intervene (74 FR 7934; February 20, 2009, at 7936).

In the four currently approved design certifications (10 CFR Part 52, Appendices A through D), paragraph VI.E presents specific directions on how to obtain access to proprietary information and SGI on the design certification in connection with a license application proceeding referencing that design certification rule. The staff is proposing this change because these provisions were developed before the events of September 11, 2001. After September 11, 2001, Congress changed the statutory requirements governing access to SGI, and the NRC revised its rules, procedures, and practices governing control and access to SUNSI and SGI. The NRC now believes that generic direction on obtaining access to SUNSI and SGI is no longer appropriate for newly approved design certification rules (DCRs). Accordingly, the specific requirements governing access to SUNSI and SGI contained in paragraph VI.E of the four currently approved DCRs should not be included in the design certification rule for the U.S. ABWR. Instead, the NRC should specify the procedures to be used for obtaining access at an appropriate time in the combined license proceeding referencing the U.S. ABWR DCR. The staff plans to include this change in any future amendment or renewal of the other existing DCRs. However, the staff does not plan to initiate rulemaking to change paragraph VI.E of the existing DCRs, to minimize unnecessary resource expenditures by both the original DCR applicant and the NRC.

Processes for Changes and Departures from Aircraft Impact Assessment Design Features

The processes for generic changes to, or plant-specific departures from, the DCD appear in Section VIII, "Processes for Changes and Departures," of Appendix A to 10 CFR Part 52. The staff is proposing changes to Section VIII to address the change control process specific to departures from the information required by 10 CFR 52.47(a)(28) to address the NRC's AIA requirements in 10 CFR 50.150. Specifically, the staff is proposing to revise paragraph B.5.b of Section VIII to indicate that the criteria in this paragraph, used to determine whether a proposed departure from Tier 2 information requires a license amendment, do not apply to a proposed departure affecting information required by 10 CFR 52.47(a)(28) to address aircraft impacts. In addition, the staff is proposing to add a new paragraph B.5.d that would require an applicant or licensee that proposes to depart from the information required by 10 CFR 52.47(a)(28) for inclusion in the DCD for the standard design certification to consider the effect of the changed feature or capability on the original assessment required by 10 CFR 50.150(a). Consistent with the Commission's intent when it issued the AIA rule, plant-specific departures from the AIA information in the final safety analysis report (FSAR) would not require a license amendment, but may be made by the licensee upon compliance with the substantive requirements of the AIA rule to support the change. The applicant or licensee would also be required to document how the modified design features and functional capabilities continue to meet the assessment requirements in 10 CFR 50.150(a)(1) in accordance with the reporting requirements in paragraph A.3, Section X, "Records and Reporting," of Appendix A to 10 CFR Part 52. The proposed addition of these provisions is consistent with the NRC's plans when it issued the AIA rule in 2009, as noted in the Statements of Consideration for that rule (74 FR 28112; June 12, 2009, at 28122, third column).

Recordkeeping Requirements for Aircraft Impact Assessments

The requirements that apply to maintaining records of changes to and departures from the generic DCD, which would be reflected in the plant-specific DCD appear in Section X of Appendix A to 10 CFR Part 52. The requirements for submitting reports (including updates to the plant-specific DCD) to the NRC also appear in Section X. The staff is proposing to add a new paragraph A.4.a to Section X that would require the applicant for the AIA amendment to the U.S. ABWR design to maintain a copy of the AIA that it had performed to comply with the requirements of 10 CFR 50.150(a) for the term of the certification (including any period of renewal). In addition, the staff is proposing to add a new paragraph A.4.b that would require an applicant or licensee that references the AIA amendment to maintain a copy of the AIA throughout the pendency of the application and for the term of the license (including any period of renewal). The addition of these paragraphs is consistent with the NRC's plans when it issued the AIA rule in 2009, as noted in the Statements of Consideration for that rule (74 FR 28112; June 12, 2009, at 28121, second column).

Rulemaking Procedure

The standard design certification amendment is being conducted in accordance with the applicable requirements in Subpart B, "Standard Design Certifications," of 10 CFR Part 52; 10 CFR Part 2, "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders"; and 10 CFR Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions." The rulemaking package includes the *Federal Register* notice

of proposed rulemaking and the NRC's draft environmental assessment for the AIA amendment to the U.S. ABWR design. In addition, the *Federal Register* notice provides a 75-day period for comment on those documents as well as the STPNOC DCD, which would be incorporated by reference into the design certification rule. The DCD is available on the NRC's public Web site at <http://www.nrc.gov/reactors/new-reactors/design-cert.html>.

The Statements of Consideration for the proposed rule would describe the process by which a member of the public could request and access SUNSI to provide meaningful comment on the proposed rule. The NRC provided a process for requesting access to proprietary information and SGI during the first three design certification rulemakings (U.S. ABWR, System 80+, and AP600). However, no requests were received during these rulemakings. In the fourth design certification rulemaking (AP1000), the NRC did not include the procedures for access, in part because of the historical lack of requests for such information and because of policy changes in information security after the events of September 11, 2001. The NRC staff is proposing to resume the practice of including in the notice of proposed rulemaking a description of the procedures for obtaining access to these types of information for the purpose of commenting on the proposed rule. Note that, in the case of the STPNOC application for amendment of the U.S. ABWR design, the applicant only submitted non-proprietary SUNSI in support of its application. STPNOC did not submit any SGI or proprietary information as part of its amendment application. Accordingly, the U.S. ABWR AIA amendment notice of proposed rulemaking only refers to SUNSI information. Future notices of proposed rulemaking for design certification may refer to SUNSI, SGI, or both, depending upon the information received from the design certification applicant.

The description of the procedures for obtaining access to SUNSI for this amendment to the U.S. ABWR will not be identical to the procedures described in the notice of proposed rulemaking for the first three DCRs. Instead, the procedures will be based on the procedures described in the Commission orders accompanying recent notices of hearing and opportunity for hearing, modified to reflect that design certification is a notice and comment rulemaking proceeding rather than a licensing proceeding with adjudicatory procedures. This proposal is based on: (1) the fact that a member of the public may seek SUNSI regardless of the NRC's notice (or lack thereof) of the procedures for doing so; (2) issue finality accorded to public and non-public portions of the design control document (DCD) depend in part upon the NRC's representation that comments should have been provided in the proposed rule; and (3) lack of a compelling reason not to include this process as it is done for a hearing on a COL application. The staff is informing the Commission of its proposal, which differs from the manner in which access to SUNSI was described in the most recent design certification rulemaking.

RESOURCES:

The Office of New Reactors has budgeted 0.7 full-time equivalent (FTE) staff for fiscal year (FY) 2011 to manage this rulemaking. The Office of the General Counsel (OGC), Office of Administration, and Office of Information Services have each budgeted a total of 0.1 FTE in FY 2011 for this rulemaking.

Resources for FY 2012 have been requested through the planning, budget, and performance management process.

RECOMMENDATIONS:

That the Commission:

- (1) Approve the proposed amendment to 10 CFR Part 52 for publication in the *Federal Register*.
- (2) Endorse the staff's recommended approach for treating multiple suppliers of a single certified design in both the case of the STPNOC amendment and generically.
- (3) Certify that this rule, if promulgated, will not have a negative economic impact on a substantial number of small entities, in order to satisfy requirements of the Regulatory Flexibility Act of 1980, as amended (5 U.S.C. § 605(b)).
- (4) Determine that the U.S. ABWR amendment's compliance with the issue finality provisions of 10 CFR 52.63 with respect to changes necessary to comply to the AIA rule were addressed in the AIA rulemaking, when the Commission "administratively exempted" the AIA rule from the issue finality provisions in Part 52.
- (5) Note the following:
 - (a) The NRC will publish the proposed rule (Enclosure 1) in the *Federal Register* for a 75-day comment period.
 - (b) The staff has performed an environmental assessment that resulted in a finding of no significant impact and evaluated severe accident mitigation design alternatives for the proposed amendment (Enclosure 2).
 - (c) This proposed rule would amend information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. § 3501 et seq.). These information collection requirements must be submitted to the Office of Management and Budget (OMB) for approval on, or immediately after, the date of publication of the proposed rule in the *Federal Register*. OMB approval may impact the schedule for this rulemaking if it is not received before the Commission's decision on the final rule.
 - (d) The staff will inform the Chief Counsel for Advocacy of the Small Business Administration of the certification on the economic impact on small entities and the reasons for it, as required by the Regulatory Flexibility Act of 1980 (Section XIII of Enclosure 1).
 - (e) The appropriate congressional committees will be informed.
 - (f) The Office of Public Affairs will issue a press release.
 - (g) The staff will use a communication plan that includes frequently asked questions prepared specifically for the AIA amendment to the U.S. ABWR standard design.

COORDINATION:

OGC has reviewed this paper and has no legal objections. The Office of the Chief Financial Officer (OCFO) indicated that, because resources did not exceed 1 FTE in any fiscal year, OCFO did not need to review the paper. The Office of Information Services has reviewed this paper for information technology and information management implications and concurs with it.

The staff presented the Advanced Safety Evaluation Report (SER) for the STPNOC amendment to the U.S. ABWR design certification to the Advisory Committee on Reactor Safeguards (ACRS) on September 9, 2010. In a September 20, 2010, letter to the Chairman (ADAMS Accession No. ML102630190), the ACRS stated that the STPNOC application to amend the U.S. ABWR design certification rule and the staff's SER are acceptable subject to satisfactory closure of the issues identified in the NOV and ACRS Recommendation 2. ACRS Recommendation 2 states that the staff should ensure that the applicant demonstrates and documents that the temperature within the fire-protected area where the alternate feedwater injection system instrument rack is to be located will not exceed the instruments' environmental qualification conditions. STPNOC has performed an analysis demonstrating that the temperature within this area will not exceed the instruments' environmental qualification conditions and has incorporated the analysis into its AIA. The staff has reviewed the analysis and finds it acceptable. The staff has also confirmed that the analysis has been incorporated into the applicant's AIA. The staff is preparing its response to the ACRS letter. The staff will provide an information copy of the enclosed *Federal Register* notice to the ACRS after publication.

/RA by Martin J. Virgilio for/

R. W. Borchardt
Executive Director
for Operations

Enclosures:

1. *Federal Register* Notice
2. Environmental Assessment

COORDINATION:

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The staff presented the Advanced Safety Evaluation Report (SER) for the STPNOC amendment to the U.S. ABWR design certification to the Advisory Committee on Reactor Safeguards (ACRS) on September 9, 2010. In a September 20, 2010, letter to the Chairman (ADAMS Accession No. ML102630190), the ACRS stated that the STPNOC application to amend the U.S. ABWR design certification rule and the staff's SER are acceptable subject to satisfactory closure of the issues identified in the NOV and ACRS Recommendation 2. ACRS Recommendation 2 states that the staff should ensure that the applicant demonstrates and documents that the temperature within the fire-protected area where the alternate feedwater injection system instrument rack is to be located will not exceed the instruments' environmental qualification conditions. STPNOC has performed an analysis demonstrating that the temperature within this area will not exceed the instruments' environmental qualification conditions and has incorporated the analysis into its AIA. The staff has reviewed the analysis and finds it acceptable. The staff has also confirmed that the analysis has been incorporated into the applicant's AIA. The staff is preparing its response to the ACRS letter. The staff will provide an information copy of the enclosed *Federal Register* notice to the ACRS after publication.

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1. Federal Register Notice
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***by email**

SECY-012

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