

RULEMAKING ISSUE
(AFFIRMATION)

August 4, 2011

SECY -11-0106

FOR: The Commissioners

FROM: R. W. Borchardt
Executive Director for Operations

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

PURPOSE:

The purpose of this paper is to obtain Commission approval to publish in the *Federal Register* the enclosed final rule that amends the U.S. Advanced Boiling Water Reactor (U.S. ABWR) standard plant design to comply with Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.150, "Aircraft impact assessment."

SUMMARY:

The U.S. Nuclear Regulatory Commission (NRC or the Commission) staff seeks the Commission's approval of final amendments to its 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, 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. This action allows applicants or licensees intending to construct and operate a U.S. ABWR to comply with 10 CFR 50.150 by referencing the amended design certification rule (DCR). 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:

To comply with the requirements of 10 CFR 50.150, STPNOC submitted an application for amendment of the U.S. ABWR standard design on June 30, 2009 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML092040048 (public version)). The 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. The STPNOC submitted its final revision to the amendment application on September 23, 2010 (ADAMS Accession No. ML102770376). The 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 the final "Safety Evaluation Report: The STP Nuclear Operating Company Amendment to the Advanced Boiling Water Reactor (ABWR) Design Certification," on October 14, 2010 (ADAMS Accession No. ML102710198).

In the *Federal Register* 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 aircraft impact assessment (AIA) rule). These 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 issued before the effective date of the rule in cases where the design certification 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 by addressing the requirements of 10 CFR 50.150 directly in their COL applications. The STPNOC submitted an application for a COL on September 20, 2007 (ADAMS Accession No. ML072830407). The STPNOC has requested this amendment to the U.S. ABWR-certified design to address the requirements of 10 CFR 50.150.

Task Force Evaluation of Fukushima-Daiichi Nuclear Power Plant Event

The applicant's proposed changes to the U.S. ABWR-certified design were prepared and submitted, and the NRC staff's review of the amendment was completed, before the recent events at the Fukushima Daiichi Nuclear Power Plant in Japan. The Commission created a task force to conduct both short- and long-term analysis of the lessons that can be learned from the Fukushima accident. The task force has issued a report (ADAMS Accession No. ML111861807) evaluating currently available technical and operational information from the events, and presented a set of twelve (12) overarching recommendations.

The staff believes that the Commission may proceed with the issuance of the U.S. ABWR DCR amendment and does not need to wait until the Commission has acted on the task force recommendations. The Commission can amend the U.S. ABWR DCR at any time to reflect any Commission-approved task force recommendations in the U.S. ABWR certified design. Such Commission-imposed changes would be subject to the issue finality provisions of

10 CFR 52.63(a)(1) and would have to meet one or more of the change criteria of that paragraph. Moreover, this is true regardless of whether the change is pursued as part of this amendment and affects matters within the scope of the applicant-proposed changes to the U.S. ABWR-certified design which are necessary to comply with the AIA rule, or whether the change is made as a separate rulemaking. Because the criteria for imposing Commission-approved task force recommendations do not vary depending on whether the Commission-directed changes are made as part of this amendment or in a separate rulemaking, the staff sees no safety or regulatory benefit in the Commission delaying its approval of the U.S. ABWR DCR amendment.

PUBLIC COMMENTS:

On January 20, 2011 (76 FR 3540), the NRC published in the *Federal Register* a proposed DCR that would amend the U.S. ABWR standard plant design. The *Federal Register* notice provided the public an opportunity to comment on the proposed DCR, the STPNOC's amendment to the U.S. ABWR design, and the environmental assessment. The public comment period for the proposed rule closed on April 5, 2011. The NRC received three comment letters on the proposed rule. Of those comments, one commenter, Nuclear Innovation North America LLC, was in favor of the proposed amendment to the U.S. ABWR; one commenter, GE Hitachi Nuclear Energy, was opposed to the proposed amendment to the U.S. ABWR; and one commenter, Thomas Shadis, addressed issues unrelated to the proposed amendment to the U.S. ABWR. The enclosed *Federal Register* notice summarizes these comments and responses. The following paragraphs address public comments that had a substantive effect on the final rule.

Major Changes Made in the Final Rule

Summaries of the major changes from the proposed rule to the final rule are provided below. The *Federal Register* notice discusses all of these changes in more detail.

Deletion of Proposed Paragraph III.E. The proposed rule would have added proposed new paragraph III.E to address the situation in which an applicant discovers unintended consequences or unaddressed issues resulting from the STPNOC's amendment, and that, in such a situation, the applicant would be expected to notify the NRC if the situation is not reportable under 10 CFR Part 21 or 10 CFR 52.6, 50.72, or 50.73 (76 FR 3551, third column). Upon consideration of the matter, the NRC agrees with the comment that the proposed paragraph III.E is unnecessary. The NRC's intent in proposing the reporting requirement is to ensure that the NRC is made aware of conflicts between the GE Nuclear Energy (GE) design control document (DCD) and the STPNOC DCD, which may be identified by a referencing COL applicant or holder. Upon consideration of the comment, the NRC agrees that any material conflict identified by the COL applicant or holder would ultimately be brought to the attention of the NRC by virtue of the legally binding need to comply with both DCDs. If there is a conflict, the referencing COL applicant or holder would seek resolution of the conflict, through i) either taking or submitting a request for a departure (including a request for exemption as necessary); or ii) submitting a 10 CFR Part 2, Subpart H, rulemaking petition to amend the DCR in order to resolve the apparent conflict. In addition, reporting may also be required under 10 CFR 50.55(e), 10 CFR 50.72, 10 CFR 50.73, or 10 CFR Part 21. Thus, proposed paragraph III.E does not appear to be needed to ensure necessary reporting of such conflicts identified by

either the original applicant or the applicant for an amendment that leads to establishment of an option or branch. For these reasons, the final rule does not include the proposed paragraph III.E.

Inclusion of Findings Sufficient to Form the Basis for the STPNOC Design Option. The NRC agrees with one commenter's observation that existing paragraph VI.A does not accurately reflect the scope of the issue resolution accorded the STPNOC option. Upon consideration of the matter, the staff proposes to add separate paragraphs in the final rule to address 1) the scope of issue resolution accorded the original GE DCD, 2) the scope of issue resolution accorded the STPNOC option, and 3) the scope of issue resolution accorded the combination of the GE DCD and the STPNOC option. Accordingly, the final rule includes new paragraphs VI.A.1, VI.A.2, and VI.A.3, which describe the issue finality provided for nuclear safety issues for the GE DCD, for the STPNOC DCD, and for the combination of the GE DCD and STPNOC DCD.

DISCUSSION:

Technical Evaluation of STPNOC Amendment to U.S. ABWR Design

The NRC's review of the applicant's proposed amendment to the U.S. ABWR design certification 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 the STPNOC's application and to supply the amended portion of the U.S. ABWR design. The 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 10 CFR Part 52 rulemaking, it stated that a DCR "does not, strictly speaking, belong to the designer." See 54 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 that 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 DCR with two or

more suppliers¹ of the certified design. In the years after the 1989 10 CFR 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 to the U.S. ABWR design certification, the staff began a process of identifying and considering possible regulatory 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 considered three alternatives that it could reasonably select:

- (1) Separate rules: Develop separate DCRs for each supplier.
- (2) Branches: Develop one DCR with multiple branches, with each branch describing a complete design to be supplied by each supplier.
- (3) Options: Develop one DCR with options, with each option describing a portion of the certified design that 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.

Upon consideration, the staff concludes that, as an overall approach, the “branches” alternative should be used in cases of 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 the NRC about the processing of its request to amend the U.S. ABWR design certification, STPNOC proposed that the staff adopt a process similar to the “options” approach for the STPNOC U.S. ABWR amendment. STPNOC based its request on a number of factors that the NRC considered to be unique to STPNOC’s 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 (as it would under the “branches” approach).

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- 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 that references the standard DCR in its application and the holder of a permit or license that incorporates the standard design certification.

GE Hitachi Nuclear Energy (GEH) commented against use of the “options” approach on the proposed rule and suggested the NRC review the proposed changes to the U.S. ABWR design certification as departures in the STP Units 3 and 4 combined license application, as is allowed by the AIA rule, 10 CFR 50.150(a)(3)(v)(B) and the associated provision in 10 CFR 52.79(a)(47). GEH further asserted that the “options” approach selection is solely for the purpose of supporting the STP Units 3 and 4 combined license application (GEH-1), introduces complexity and discourages standardization within a single design (GEH-2), and undermines the protection afforded by the Commission in its decision to use rulemaking to certify standard designs (GEH-3).

Upon consideration, the NRC has decided to use the “options” approach for the STPNOC amendment of the U.S. ABWR design certification. The staff’s responses to GEH’s comments are contained in the attached *Federal Register* Notice, Section II, and are based on 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 that 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. The 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 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. The STPNOC does 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 has already demonstrated its technical qualifications to supply the STPNOC option. The STPNOC has indicated that Toshiba has submitted an application for renewal of the U.S. ABWR design certification that is consistent with the “branches” approach. Thus, there would be a limited period in which the STPNOC option could be referenced by a future COL applicant, 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.

Based on these considerations, the NRC declined to adopt GEH’s proposed course of action and is adopting the “options” alternative for the STPNOC amendment of the U.S. ABWR design certification, but the NRC will regard the “branches” alternative as the default for all renewals of design certifications and for major design certification amendments. Under the “options” approach, applicants seeking amendments to already certified designs must be found to be qualified to supply the limited scope of the revisions they seek. 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 offers the most effective and efficient regulatory option 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 added a new paragraph A.4 to Section IV, "Additional Requirements and Restrictions," of Appendix A to 10 CFR Part 52. This new paragraph IV.A.4 states 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.

Paragraph A.4.a requires that a COL applicant referencing Appendix A include, as part of its application, a demonstration 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.

Paragraph A.4.b requires that a COL applicant referencing the STPNOC-certified design option include, as part of its application, a demonstration that an entity other than STPNOC and Toshiba America 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 where 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 is required to include information in its application to demonstrate that it is technically qualified to engage in the proposed activities (e.g., supplying the certified design to license applicants). Based on the staff's review of the STPNOC application to amend the U.S. ABWR-certified design, 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. However, the staff determined that STPNOC, by itself, is not technically qualified to supply the amended portion of the U.S. ABWR design certification represented in the STPNOC's DCD. Rather, the staff determined that STPNOC and TANE acting together are qualified to supply the amended portion of the U.S. ABWR design certification represented in the STPNOC's DCD. Therefore, the staff is adding paragraph IV.A.4.b to ensure that the basis for the NRC finding of technical qualifications in support of this design certification amendment remains valid.

Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information

The staff is revising paragraph E of Section VI, "Issue Resolution," of Appendix A to 10 CFR Part 52, which provides the procedure that an interested member of the public must follow to obtain access to sensitive unclassified non-safeguards information (SUNSI) and safeguards information (SGI) for the U.S. ABWR design and to request and participate in proceedings that involve licenses and applications that reference the U.S. ABWR design. The staff is replacing the current information in paragraph VI.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 (including proprietary information), 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 in any other proceeding related to Appendix A to 10 CFR Part 52 in which interested persons have a right to request an adjudicatory hearing.

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 DCR. The staff is making this change because these provisions were developed before the terrorist 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 DCRs. Accordingly, the specific requirements governing access to SUNSI and SGI contained in paragraph VI.E of the four currently approved DCRs are not included in the amended DCR for the U.S. ABWR. Instead, the NRC will specify the procedures to be used for obtaining access at an appropriate time in any COL proceeding referencing the U.S. ABWR DCR. The staff intends to include this change in any future amendment or renewal of the other existing DCRs. However, to minimize unnecessary resource expenditures by both the original DCR applicant and the NRC, the staff is not planning to initiate rulemaking to change paragraph VI.E of the existing DCRs.

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 changing 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 revising paragraph B.5.b of Section VIII to indicate that the criteria in this paragraph for determining if 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 redesignating paragraphs VIII.B.5.d, B.5.e, and B.5.f as paragraphs VIII.B.5.e, B.5.f, and B.5.g, respectively, and adding a new paragraph VIII.B.5.d. Paragraph VIII.B.5.d requires an applicant or licensee who proposes to depart from the information required by 10 CFR 52.47(a)(28) to be included in the final safety analysis report (FSAR) 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 NRC's intent when it issued the AIA rule, plant-specific departures from the AIA information in the FSAR do not require a license amendment, but may be made by the licensee upon compliance with the substantive requirements of the AIA rule (i.e., the AIA acceptance criteria). The applicant or licensee is also required to document, in the plant-specific departure, 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 addition of these provisions to this appendix is consistent with the NRC's intent 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 adding a new

paragraph A.4.a to Section X that requires the applicant for the AIA amendment to the U.S. ABWR design to maintain a copy of the AIA that it performed to comply with the requirements of 10 CFR 50.150(a) for the term of the certification (including any period of renewal). The NRC is also adding new paragraph X.A.4.b, which requires an applicant or licensee who 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 intent 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).

RESOURCES:

The Office of New Reactors (NRO) 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 (OIS) have each budgeted a total of 0.1 FTE in FY 2011 for this rulemaking. For FY 2012, NRO is requesting 0.2 FTE and OGC, Office of Administration, and OIS have each requested less than 0.1 FTE through the planning, budget, and performance management process.

RECOMMENDATIONS:

That the Commission:

1. Approve the amendment to 10 CFR Part 52 for publication in the *Federal Register*.
2. 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)).
3. 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 with the AIA rule were addressed in the AIA rulemaking, when the Commission "administratively exempted" the AIA rule from the issue finality provisions in 10 CFR Part 52.
4. Note:
 - a. An environmental assessment resulted in a finding of no significant impact and evaluated severe accident mitigation design alternatives for the final amendment (Enclosure 2).
 - b. This rule contains amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). The information collection requirements must be submitted to the Office of Management and Budget for approval before publication of the final rule in the *Federal Register*.
 - c. The Chief Counsel for Advocacy of the Small Business Administration will be informed 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 XI of Enclosure 1).

- d. The appropriate congressional committees will be informed.
- e. The Office of Public Affairs will issue a press release.

COORDINATION:

The Office of the General Counsel has no legal objections to this paper. The Office of the Chief Financial Officer has indicated that, because resources did not exceed 1 FTE in any FY, it did not need to review the paper. The Office of the Information Services has reviewed this final rule for information technology and information management implications and concurs with the rule. A draft copy of the U.S. ABWR AIA DC Amendment final rule package was sent to the Advisory Committee on Reactor Safeguards (ACRS) on June 27, 2011 (ADAMS Accession No. ML111530034) and requested that the ACRS waive its review of the final rule. The ACRS issued a letter in response dated July 20, 2011 (ADAMS Accession No. ML11100A147) agreeing with the staff to waive its review of the final rule and stating that it has no objection to the staff's proposal to issue the final rule.

The NRC staff is preparing a letter to the Director, Office of the Federal Register (OFR), requesting approval of the STPNOC DCD for incorporation by reference. The letter will be sent to the OFR before we request publication of the *Federal Register* notice and will address the criteria for approval of documents for incorporation by reference.

/RA by Martin J. Virgilio for/

R. W. Borchardt
Executive Director
for Operations

Enclosures:

1. *Federal Register* Notice
2. Environmental Assessment

- d. The appropriate congressional committees will be informed.
- e. The Office of Public Affairs will issue a press release.

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R. W. Borchardt
Executive Director
for Operations

Enclosures:

1. *Federal Register* Notice
2. Environmental Assessment

ADAMS Accession No.: ML111370596 *via e-mail WITS 201100136/EDATS: SECY-2011-0244

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