

[10 CFR PART 50/52 LESSONS LEARNED RULEMAKING NEI COMMENTS TO BE INCLUDED WITH NRC PUBLIC MEETING SUMMARY]

	Regulation	Comment/Basis	Recommendation
1.	10 CFR 52, DCR Appendices	<p>Section VIII currently does not provide for "Applicability" similar to 50.59(c)(4) for changes within the scope of the plant-specific DCD.</p> <p>Note that operational program descriptions in the FSAR are governed by 50.59, including applicability determinations. Refer to NEI 96-07, Appendix C Section 1.2.</p>	<p>In Section VIII, consider whether to provide for "Applicability" similar to 50.59(c)(4), "The provisions in this section do not apply to changes to the facility or procedures when the applicable regulations establish more specific criteria for accomplishing such changes."</p> <p>Note that all departures from the plant specific DCD may need to be identified in Section X Departure reports, regardless of the change process used to evaluate them.</p>
2.	10 CFR 52	<p>In SECY 15-0002 Enclosure 2, the NRC indicates that the staff would like to amend the regulations for a COL to include an expiration date when no safety related construction activity has been started.</p>	<p>Industry questions the statutory basis for adding an expiration date to COL?</p> <p>What aspect of public health and safety is compromised for a plant that is delayed?</p> <p>Industry prefers not to add an expiration date to COLs subject to whether safety related construction activity has been started.</p> <p>If NRC proceeds with such an expiration date, there will also need to be a provision to renew the COL prior to commencement of construction.</p>
3.	10 CFR 52.99 and 10 CFR 52.103	<p>The final 10 CFR 52 rule statements of consideration failed to include the statement that the NRC did not intend to allow late-filed contentions on ITAAC under 10 CFR 52.103(a).</p>	<p>Support a rule change providing a specific prohibition on late-filed contentions for hearing requests on ITAAC under 10 CFR 52.103(a).</p>
4.	10 CFR 52.43(b)	<p>Conforming changes are needed to Section 52.43(b) regarding SDA.</p>	<p>Modify 52.43(b) to remove the word "final" and to add, "or major portions thereof"</p>
5.	10 CFR 52.133(a)	<p>Clarification is needed that SDAs (one or more) may be referenced in design certifications, as well as CP and COL applications</p>	<p>Add to 52.133 that design certifications may reference one or more SDAs.</p>

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6.	10 CFR 52.79(a)(41) and 10 CFR 52.47(a)(9)	Revise 10 CFR 52.79(a)(41) and 52.47(a)(9) to limit the NRC's use of new SRP or other new NRC staff positions adopted after the date six months before docketing. The current regulation requires the application to address SRP in effect six months before docketing. As with the backfit rule (10 CFR 50.109), subsequent SRP revisions and other changes in the NRC staff's interpretation of the regulations should not be applied to the NRC's review of the docketed application. In practice, however, the NRC staff has often asked applicants to address new SRP revisions, Reg. Guides, or other new staff positions that were adopted after the date six months before application docketing.	<p>Add a proposed new footnote to limit NRC's use of such new positions:</p> <p>"(41) For applications for light-water-cooled nuclear power plant combined licenses, an evaluation of the facility against the standard Review Plan (SRP) revision in effect 6 months before the docket date of the application. The evaluation required by this section shall include an identification and description of all differences in design features, analytical techniques, and procedural measures proposed for a facility and those corresponding features, techniques, and measures given in the SRP acceptance criteria. Where a difference exists, the evaluation shall discuss how the proposed alternative provides an acceptable method of complying with the Commission's regulations, or portions thereof, that underlie the corresponding SRP acceptance criteria.</p> <p><u>* SRP revisions and other NRC regulatory staff positions adopted later than six months before the docket date will not be applicable to the application, and the combined license applicant shall not be required to respond to RAIs or otherwise evaluate the facility against such SRP revisions or positions, except in accordance with the provisions of §50.109 of this chapter, as applicable."</u></p>
7.	AP1000 DCR Section VI.B.6	Correct cross reference with AP1000 DCR	Correct VI.B.6 (on issue resolution) to refer to VIII.b.5.g (not f).
8.	DCR IV.B	Design certification rules should clarify how they may be referenced in a CP/OL application, including the ITAAC. The SOC for the ABWR final rule says, "The Commission reserves the right to determine in what manner this appendix may be referenced by an applicant for a construction permit or operating license under 10 CFR part 50. This determination may occur in the	Clarify DCR IV.B concerning how a DC may be referenced in a CP/OL or how an OL's FSAR in is incorporated in a subsequent DCA and whether use of ITAAC is permitted but not required.

		context of a subsequent rulemaking modifying 10 CFR 52 or this DCR, or on a case-by-case basis in the context of a [CP application].”	
9.	10 CFR 52.47(a)(26)	The last sentence of 52.47(a)(26) is not being used and therefore has been shown to be unnecessary.	Delete last sentence of 52.47(a)(26): Justification that compliance with the interface requirements of paragraph (a)(25) of this section is verifiable through inspections, tests, or analyses. The method to be used for verification of interface requirements must be included as part of the proposed ITAAC required by paragraph (b)(1) of this section; and
10.	10 CFR 50.71(e)	Clarify 50.71(e) applicability to both COL applicants and holders.	Revise Section 50.71(e) to read: Each person licensed to operate a nuclear power reactor under the provisions of § 50.21 or § 50.22, and each applicant for <u>or holder of</u> a combined license under 10 CFR 52 of this chapter, shall update periodically.
11.	10 CFR 50.69	10 CFR 50.69 omits a statement of applicability to COL Holders.	Clarify 50.69 applicability to COL Holders (see NEI PRM-50-110 (ML15037A481)). The petition requested that the NRC clarify the applicability of an NRC regulation to combined licenses (COLs). The applicability and scope of the NRC's regulations in § 50.69 currently applies to a holder of a license to operate a LWR under 10 CFR part 50; a holder of a renewed LWR license under 10 CFR part 54; an applicant for a construction permit or operating license under 10 CFR part 50; or an <u>applicant</u> for a design approval, a COL, or manufacturing license under 10 CFR part 52. A holder of a COL issued under 10 CFR part 52 is not included in the group of entities that may take advantage of the provisions of § 50.69.
12.	10 CFR 55.54(m)	Table of minimum requirements per shift for on-site staffing of nuclear power units by operators and senior operators currently does	Consider expansion of the table for sites that could have more than three operating units.

		not address requirements for more than three power units operating.	
13.	10 CFR 50.54(q)	The Emergency Plan change process provided by 10 CFR 50.54(q) should be available to licensees during construction, i.e., prior to the Section 52.103(g) finding.	Correct 10 CFR 50.54(q) to apply during construction. See ML14311A992.
14.	10 CFR 73	NRC has taken the position that, during construction, a COL holder needs a §73.67 security plan to receive fuel and cannot rely upon a §73.55 security plan until NRC makes the 52.103(g) finding.	Modify §73.67 to allow a COL holder the option during construction to utilize its §73.55 security plan to receive fuel. <u>OR</u> SECY-15-0002 suggests that 10 CFR 70 requirements should apply for receipt of fuel on site, consistent with 10 CFR 50 CP requirements. The industry requests that the NRC evaluate whether similar changes are warranted with respect to implementation of the radiation protection, fire protection, and emergency plans prior to the 52.103(g) finding.
15.	10 CFR 73.58	10 CFR 73.58 applies to operating reactor licenses issued under part 50 or 52. A more clear reference to the 103(g) finding for Part 52 licensees could clarify the intent this process does not apply until the operational phase.	Clarify that applicability of 10 CFR 73.58 begins upon issuance of a 10 CFR 52 103(g) finding. Reference ML14175A578. Also clarify applicability during decommissioning.
16.	10 CFR 50.55(e)	10 CFR 50.55(e) requirements are very similar to the provisions of 10 CFR 21 and used for the same purpose.	Therefore, 10 CFR 50.55(e) can be deleted without any reduction to the health and safety of the public. This issue was considered in connection with NRC endorsement in RG 1.234 of NEI 14-09. It is inefficient to have provisions in 2 separate parts of the regulations and therefore the regulations should be revised to eliminate duplication.

17.	10 CFR 20	Part 20 requirements within DCAs/SDAs.	Clarify scope of extent to which Part 20 requirements need to be addressed within DCAs/SDAs.
18.	10 CFR 21.3	Definition of "dedicating entity" does not apply to 10 CFR 52 licensees; it was unintentionally omitted in a 2007 10 CFR 21 amendment. This is also true with respect to a number of other definitions in 21.3.	Correct 21.3 definitions to also apply to 10 CFR 52 licensees.
19.	10 CFR 50.55a	The current regulations are set up to drive the licensee to remain in ASME Section III until the NRC 52.103(g) decision. Early additional use of Section III can put unnecessary transients on plant systems, and restricts the licensee from transitioning to other relevant ASME Code provisions (e.g. Section XI) on a per system basis.	Remove the 10 CFR 50.55a condition that requires maintaining ASME Section III for all systems until the 103(g) finding. This would permit transition to ASME Section XI for repair and replacement activities once all ASME Section III activities have been completed for the system.
20.	10 CFR 51.105 and 10 CFR 2.104	The NRC should ensure consistency in its rules by conforming 10 CFR 51.105, which contains mandatory findings on NEPA matters in uncontested proceedings, to 10 CFR 2.104, which does not specify the findings to be made.	Add a reference in 10 CFR 2.104 to 51.105.