

MORGAN, LEWIS & BOCKIUS

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NEW YORK
MIAMI
PRINCETON
BRUSSELS

COUNSELORS AT LAW
1800 M STREET, N.W.
WASHINGTON, D.C. 20036
TELEPHONE: (202) 467-7000
FAX: (202) 467-7176

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PROPOSED RULE PR 52

(60FR17902)

Supplement to GE *etc* dated
9/1/95

Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Attention: Docketing and Service Branch

Subject: Notice of Proposed Rulemaking for Standard Design
Certification of the U.S. Advanced Boiling Water
Reactor Design; 60 Fed. Reg. 17902 (April 7, 1995)
Docket No. 50-001

Dear Sir:

Thank you for bringing to GE Nuclear Energy's attention
that some of the copies of Attachment B of the letter from S.R.
Specker to the NRC dated September 1, 1995, were missing pages
103 to 117, inclusive. On behalf of GE Nuclear Energy, please
find enclosed the missing pages. We regret this oversight.

Sincerely,

Steven P. Frantz
Steven P. Frantz

/faj

Enclosure

cc(w/attach): Chairman Shirley A. Jackson
Commission Kenneth Rogers
James M. Taylor, EDO
William T. Russell, NRP
Karen D. Cyr, General Counsel
William H. Rasin (NEI)
Sterling Franks (DOE)

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operating license. As discussed in Section IV.E above, ITAAC are not needed to ensure that a facility licensed under Part 50 is built in accordance with the certified design and the Commission's regulations.

Section 5, Exemptions and applicable regulations.

As discussed in Section IV.B above, Section 5(c) of the proposed rule has been deleted to remove the "applicable regulations" proposed in the NOPR. The Commission has determined that the proposed "applicable regulations" are unnecessary because all of the related technical positions are implemented by provisions in Tier 1 and Tier 2. Retaining the broadly-stated "applicable regulations" could give rise to uncertainty in their future interpretation and to destabilizing backfits, which would be contrary to a basic purpose of Part 52.

Section 6, Issue resolution for the design certification.

As discussed in Section IV.A above, Section 6 was modified to broaden the issues entitled to finality under the rule.

A new Section 6(a) was added to clarify that the sufficiency of the ABWR standard design is considered a matter resolved in connection with issuance of this design certification rule.

Former Section 6(a) was relabeled as Section 6(b). Additionally, this Section was modified to provide finality not

only to matters associated with the DCD and FSER, but also with the SSAR, the docket for certification of the ABWR, and the ABWR rulemaking record. Finally, this Section was modified to clarify that the NRC may not require applicants or licensees to provide additional structures, systems, components, or design features, or additional design criteria, testing, analysis or justification therefor, beyond those already discussed in the FSER or DCD.

Former Section 6(b) was relabeled as Section 6(c).

A new Section 6(d) was added, consistent with the discussion in Section IV.A, to clarify that changes made in accordance with the change process set forth in Section 8 of the final design certification rule are resolved within the meaning of 10 CFR 52.63(a)(4).

A new Section 6(e) was added to clarify that the design certification has finality in all subsequent proceedings.

Section 7, Duration of the design certification.

Section 7 of the proposed rule was modified to correct a typographical error concerning the effective date of the design certification, as discussed in Section IV.K above.

Section 8, Change process.

No substantive changes were made to Section 8(a), or Sections 8(b)(1) through (4).

Section 8(b)(5) in the proposed rule was modified in several areas. First, the last sentence of Section 8(5)(i), which stated "[t]hese changes will no longer be considered 'matters resolved in connection with the issuance or renewal of a design certification' within the meaning of 10 CFR 52.63(a)(4)," was deleted. As discussed in Section IV.A above, the Commission believes that these changes should have finality.

Section 8(b)(5)(iii) was modified to limit the application of the 50.59-like change process to Section 19.8 of Tier 2 rather than all of Chapter 19 as originally proposed. Further, the standard for determining the existence of an unreviewed safety question was changed such that departures from information associated with severe accident issues shall be deemed to involve an unreviewed safety question only if there is a substantial increase in the probability or consequences of a severe accident, consistent with the discussion in Section IV.D above.

Section 8(b)(5)(iv) was modified, consistent with the discussion in Section IV.H, to clarify that exemptions are not required for changes to the technical specifications and Tier 2*, unless such changes involve an unreviewed safety question.

Section 8(c)(1) was added to clarify that Subpart H of 10 CFR Part 2 governs generic (rulemaking) changes to the design certification rule (other than Tier 1 or Tier 2) or to the DCD introduction. Section 8(c)(2) was added to clarify that

applicants and licensees may request an exemption under Section 50.12 from the provisions in this rule or the DCD Introduction.

Section 8(d) was added to provide a change process for generic changes to the DCD by the design certification applicant, as discussed in Section IV.I above.

Section 9, Records and reports.

Section 9 was modified to require semi-annual reporting of Section 50.59 changes, as discussed in Section IV.H.

Section 10, Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC).

A new Section 10 was added to require applicants or holders of combined licenses to demonstrate compliance with the ITAAC prior to fuel load or to take corrective action or request and obtain an exemption or NRC approval for change in the ITAAC in the event an activity is in noncompliance with an ITAAC. Section 10 also clarifies that while the Commission must find, prior to operation, that the acceptance criteria in the ITAAC have been met, ITAAC do not subsequently constitute regulatory requirements for modifications, for the COL holder, or for renewals of the COL. Both of these provisions are discussed in the DCD Introduction.

Section 11, ITAAC Verification.

A new Section 11 was added to clarify the nature of NRC's ITAAC verification. As discussed in Section IV.C above, the rule specifies that the NRC shall determine compliance with ITAAC by verifying that the required inspections, tests, and analyses have been successfully completed and that, based solely thereon, the corresponding acceptance criteria have been satisfied. Compliance with other requirements, such as quality assurance issues, will be confirmed through the Part 50 inspection and enforcement process.

VII. Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act (NEPA) and the Commission's regulations in 10 CFR Part 51, Subpart A, that this design certification rule is not a major Federal action significantly affecting the quality of the human environment, and therefore an environmental impact statement (EIS) is not required. Rather, an environmental assessment was performed and made available to the public. No comments were received by the NRC on the environment assessment.

The basis for the no significant environmental impact determination, as documented in the environmental assessment, is

that this amendment to 10 CFR Part 52 does not authorize the siting, construction, or operation of a facility using the U.S. ABWR design; it only codifies the U.S. ABWR design in a rule. The NRC will evaluate the environmental impacts and issue an EIS as appropriate in accordance with NEPA as part of an application for the construction and operation of a facility.

In addition, as part of the environmental assessment for the ABWR design, the NRC reviewed pursuant to NEPA, GE's evaluation of various design alternatives to prevent and mitigate severe accidents that were submitted in GE's "Technical Support Document for the ABWR." The Commission finds that GE's evaluation provides a sufficient basis to conclude that there is reasonable assurance that an amendment to 10 CFR Part 52 certifying the U.S. ABWR design will not exclude a severe accident design alternative for a facility referencing the certified design that would have been cost beneficial had it been considered as part of the original design certification application. These issues are considered resolved for the U.S. ABWR design.

The environmental assessment, upon which the Commission's finding of no significant impact is based, and the Technical Support Document for the ABWR are available for examination and copying at the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC. Single copies are also available from Mr. Harry Tovmassian, Mailstop T-9 F33, Office of Nuclear

Regulatory Research, U.S. Nuclear Regulatory Commission,
Washington, DC 20555, (301) 415-6231.

VIII. Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget approval number _____.

IX. Regulatory Analysis

The NRC has not prepared a regulatory analysis for this rule. The NRC prepares regulatory analyses for rulemakings that establish generic regulatory requirements. Because the Commission has deleted the proposed "applicable regulations," this design certification is not a generic rulemaking. Rather, this design certification is a Commission approval of a specific nuclear power plant design by rulemaking. Furthermore, this design certification rulemaking was initiated by an applicant for a design certification, rather than the NRC. For these reasons, the Commission concludes that preparation of a regulatory analysis is neither required nor appropriate.

X. Regulatory Flexibility Act Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rulemaking will not have a significant economic impact upon a substantial number of small entities. The rule provides a standard design certification for a light water nuclear power plant design. Neither the design certification applicant, nor nuclear power plant licensees who reference this design certification rule, fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act, 15 U.S.C. 632, or the Small Business Size Standards set out in regulations issued by the Small Business Administration in 13 CFR Part 121. Thus, this rule does not fall within the purview of the act.

XI. Backfit Analysis

The Commission has determined that the backfit rule, 10 CFR 50.109, does not apply to this rule because these amendments do not impose requirements on existing 10 CFR Part 50 licensees or the Final Design Approval for the ABWR. Therefore, a backfit analysis was not prepared for this rule.

XII. List of Subjects in 10 CFR Part 52

Part 52 - Administrative practice and procedure, Antitrust, Backfitting, Combined license, Early site permit, Emergency planning, Fees, Incorporation by reference, Inspection, Limited work authorization, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Reporting and recordkeeping requirements, Standard design, Standard design certification.

Text of Final Regulations

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is adopting the following amendment to 10 CFR Part 52.

Part 52 - EARLY SITE PERMITS; STANDARD DESIGN CERTIFICATIONS AND COMBINED LICENSES FOR NUCLEAR POWER PLANTS

1. The authority citation for 10 CFR Part 52 continues to read as follows:

AUTHORITY: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat.

1244, as amended (42 U.S.C. 2133, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1243, 1244, 1246, 1246, as amended (42 U.S.C. 5841, 5842, 5846).

2. In § 52.8, paragraph (b) is revised to read as follows:

§ 52.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 52.15, 52.17, 52.29, 52.45, 52.47, 52.57, 52.75, 52.77, 52.78, 52.79, and Appendix A.

3. A new Appendix A to 10 CFR Part 52 is added to read as follows:

Appendix A To Part 52--Design Certification Rule
for the U.S. Advanced Boiling Water Reactor

1. Scope.

This Appendix constitutes the standard design certification for the U.S. Advanced Boiling Water Reactor (ABWR) design, in accordance with 10 CFR Part 52, Subpart B. The applicant for certification of the U.S. ABWR design was GE Nuclear Energy.

2. Definitions.

As used in this part:

(a) *Design control document* (DCD) means the master document, which contains the DCD Introduction, Tier 1 and Tier 2 information that is incorporated by reference into this design certification rule.

(b) *Tier 1* means the portion of the design-related information contained in the DCD that is certified by this design certification rule (hereinafter Tier 1 information). Tier 1 information consists of:

- (1) Definitions and general provisions;
- (2) Certified design descriptions;
- (3) Inspections, tests, analyses, and acceptance criteria (ITAAC);

- (4) Significant site parameters; and
- (5) Significant interface requirements.

The certified design descriptions, interface requirements, and site parameters are derived from Tier 2 information, but may be more general than the provisions in Tier 2. Compliance with the more detailed Tier 2 material provides a sufficient method, but not the only acceptable method, for complying with the more general provisions in Tier 1. However, the methods and provisions specified in Tier 2 shall be followed unless a change is made in accordance with the change processes specified in the design certification rule for the ABWR.

The Design Descriptions in Tier 1 pertain only to the design of structures, systems, and components of the ABWR standard plant and not to their operation, maintenance, and administration. In the event of an inconsistency between Tier 1 and Tier 2, Tier 1 shall govern. Design activities for structures, systems, and components outside the scope of the ABWR standard design may be performed using site-specific design parameters.

(c) Tier 2 means the portion of the design-related information contained in the DCD that is approved by this design certification rule (hereinafter Tier 2 information). Tier 2 information includes:

- (1) The information required by 10 CFR 52.47;
- (2) The information required for a final safety analysis report under 10 CFR 50.34(b), and
- (3) Supporting information on the inspections, tests, and analyses that will be performed to demonstrate that the acceptance criteria in the ITAAC have been met. Compliance with Tier 2 is a sufficient, but not necessarily the only, method for complying with the ITAAC. The provisions and methods specified in Tier 2 shall be followed unless a change is made in accordance with the change processes specified in the design certification rule for the ABWR.
- (4) COL License Information Items, which identify certain matters that need to be addressed by an applicant or licensee referencing the design certification rule for the ABWR. The purpose of these COL License Information Items is to identify the type of information that must be addressed in plant-specific safety analysis reports (SAR) that reference the design certification rule for the ABWR. These COL License Information Items do not establish requirements; rather they identify an acceptable set of information, but not the only acceptable set of information, for inclusion in a plant-specific SAR. An applicant may deviate from or

omit these COL License Information items, provided that the deviation or omission is identified and justified in the plant-specific SAR. After issuance of a construction permit or license, the COL License Information items have no further effect to that licensee; instead, the corresponding provisions in the plant-specific SAR are applicable.

- (5) Conceptual designs for those portions of the plant which are outside the scope of the ABWR standard design. As provided in 10 CFR 52.47(a)(1)(ix), these conceptual designs are not part of the design certification rule for the ABWR standard design, and do not impose requirements applicable to a license, nor to an application for a license, that references the design certification rule.
- (6) References to the ABWR Standard Safety Analysis Report, which shall not be construed as incorporating these sections, or the information therein, in Tier 2.
- (7) Proposed technical specifications for the portion of the plant within the scope of the standard design. These proposed technical specifications are applicable to an applicant for a combined license or operating license referencing this design certification rule, and shall be incorporated in the technical specifications

in the license, except as changed pursuant to the provisions in Section 8 of this design certification rule that apply to changes in Tier 2 information. Changes in the proposed technical specifications by a license applicant are subject to NRC review and approval and a hearing as part of the license proceeding. After issuance of the combined license or operating license, the proposed technical specifications in Tier 2 have no further effect to that licensee, and the technical specifications in the license are effective.

Tier 2 does not include proprietary and safeguards information from the Standard Safety Analysis Report for the ABWR. This proprietary and safeguards information, or its equivalent, must be included or referenced as part of a license application that references the design certification rule for the ABWR.

(d) *Tier 2** means the portion of the Tier 2 information which cannot be changed without prior NRC approval by letter or other written document. This information is identified in the DCD. The restrictions on changes to Tier 2* information expire at first full power for a plant that references this design certification rule. Thereafter, changes to the Tier 2*