

POLICY ISSUE **(Notation Vote)**

January 17, 2017

SECY-17-0007

FOR: The Commissioners

FROM: Victor M. McCree
Executive Director for Operations

SUBJECT: PETITIONS TO MODIFY A COMBINED LICENSE AND PETITIONS TO
MODIFY, SUSPEND, OR REVOKE AN EARLY SITE PERMIT

PURPOSE:

This paper requests that the Commission delegate to the U.S. Nuclear Regulatory Commission (NRC) staff the authority to approve or deny petitions to modify a combined license (COL) in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) 52.103(f) and petitions to modify, suspend, or revoke an early site permit (ESP) in accordance with 10 CFR 52.39(c)(2). The requested delegations include any immediate action determinations necessary during staff review. This paper also seeks Commission approval of certain recommendations for the 10 CFR 52.103(f) process. This paper does not address any new commitments or resource implications.

SUMMARY:

Petitions under 10 CFR 52.103(f) and 10 CFR 52.39(c)(2) must be processed in accordance with 10 CFR 2.206, "Requests for action under this subpart," but further guidance is needed for the 10 CFR 52.103(f) process. The staff seeks Commission approval of the following proposals:

- The staff recommends that the opportunity to file 10 CFR 52.103(f) petitions begin with license issuance and end with the 10 CFR 52.103(g) finding, which allows operation to begin. Allowing petition filings upon license issuance promotes efficiency and early issue resolution. The filing opportunity should end with the 10 CFR 52.103(g) finding because 10 CFR 52.103(f) is intended to address the decision to allow operation.

CONTACT: Andrea Johnson, NRO/DEIA
301-415-2890

Michael Spencer, OGC
301-287-9115

- If review of a 10 CFR 52.103(f) petition is ongoing, 10 CFR 52.103(f) requires an immediate action determination before the licensed activity allegedly affected by the petition begins. The staff recommends that the Commission interpret the term “licensed activity” to refer to operational activities because 10 CFR 52.103(f) focuses on the decision to allow operation and the licensed activities listed in the regulation (“fuel loading, low power testing”) relate to operation. In deciding whether to impose substantive requirements on a licensee as part of an immediate action determination, the staff recommends that the NRC determine whether such requirements are necessary for reasonable assurance of adequate protection of the public health and safety. This standard is consistent with the standard used for immediately effective orders and for interim operation pending the completion of hearings on inspections, tests, analyses, and acceptance criteria (ITAAC).
- The staff recommends that for the period before the 10 CFR 52.103(g) finding, the NRC establish a process for coordinating action on 10 CFR 2.206 petitions, 10 CFR 52.103(f) petitions, and petitions for rulemaking regarding certified design information that a COL holder incorporates by reference. The staff also recommends that if one of these petitions addresses safe operation at a specific facility, the 10 CFR 52.103(f) immediate action determination process be applied to address commencement of operational activities pending a decision on the petition.

Finally, the staff recommends that the Commission delegate the authority to make decisions on 10 CFR 52.103(f) and 10 CFR 52.39(c)(2) petitions to the staff. Delegation of these decisions would be consistent with the delegation of authority to the staff for similar decisions, would promote efficiency, and would ensure coordination with related regulatory decisions. In addition, the Commission would still have an opportunity to become involved in the 10 CFR 52.103(f) process consistent with 10 CFR 2.206, wherein the Commission may exercise its supervisory power over the staff or review the staff’s decision. Also, the Commission may directly rule on the petition if the issues it raises are of sufficient public importance.

BACKGROUND:

A. Commencement of Operation Under a Combined License

The regulation at 10 CFR 52.103, “Operation under a combined license,” governs the commencement of operation under a COL and includes requirements associated with meeting the ITAAC in the COL and requirements for ITAAC hearings. A COL authorizes both the construction of the facility and, subject to meeting the conditions set forth in the COL, the operation of the facility. The ITAAC provide reasonable assurance that if the inspections, tests, and analyses are performed and the acceptance criteria are met, the facility has been constructed and will be operated in accordance with the COL, the Atomic Energy Act of 1954, as amended (AEA), and the NRC’s rules and regulations. A licensee cannot operate the facility until the Commission finds, in accordance with AEA Section 185b. and 10 CFR 52.103(g), that the acceptance criteria in the COL are met.

The AEA provides an opportunity for a hearing on conformance with the acceptance criteria in the COL. The AEA imposes special requirements for this hearing process, including the following three:

- (1) Hearing requests must show *prima facie* that the acceptance criteria have not been or will not be met and that the specific operational consequences of nonconformance are contrary to reasonable assurance of adequate protection of the public health and safety.
- (2) Hearing procedures may be formal or informal.
- (3) Interim operation is allowed while the hearing is ongoing if there is reasonable assurance of adequate protection of the public health and safety during the interim period of operation.

The ITAAC hearing process begins late in the construction period, and the AEA directs the NRC, to the maximum possible extent, to resolve the hearing issues within 180 days of the notice of intended operation or by scheduled fuel load, whichever is later.

The staff addressed interim operation in SECY-13-0033, "Allowing Interim Operation under Title 10 of the *Code of Federal Regulations* Section 52.103," dated April 4, 2013 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML12289A928). In the NRC staff requirements memorandum (SRM) dated July 19, 2013 (ADAMS Accession No. ML13200A115), the Commission approved the staff's recommendation that the Commission delegate the 10 CFR 52.103(g) finding to the staff, and the Commission directed the development of options for ITAAC hearing formats for Commission review and approval. The General Counsel submitted draft ITAAC hearing procedures with SECY-15-0010, "Final Procedures for Hearing on Conformance with the Acceptance Criteria in Combined Licenses," dated January 20, 2015 (ADAMS Accession No. ML14343A747). In the SRM dated April 1, 2016 (ADAMS Accession No. ML16092A102), the Commission approved the publication of the final procedures for ITAAC hearings, subject to changes directed by the Commission. The final procedures were published on July 1, 2016, in Volume 81 of the *Federal Register* (FR), page 43266 (81 FR 43266).

B. Petitions to Modify a Combined License

The public may submit petitions to modify the terms and conditions of the COL under 10 CFR 52.103(f). Such petitions must be filed with the Secretary of the Commission and processed as requests for action in accordance with 10 CFR 2.206. If review of a 10 CFR 52.103(f) petition is ongoing, the Commission must determine whether any immediate action is required before commencement of the licensed activity the petition allegedly affects (e.g., fuel loading, low-power testing). Then, if the petition is granted, the Commission will issue an appropriate order. The granting of the petition will not affect fuel loading and operation under the COL unless the order is made immediately effective. The 10 CFR 52.103(f) process is separate from, but could occur in parallel with, ITAAC hearing activities. ITAAC hearings focus solely on whether the acceptance criteria in the ITAAC are satisfied, and 10 CFR 52.103(f) petitions address issues outside of the ITAAC hearing process.

The NRC established the 10 CFR 52.103(f) process in the original rule for 10 CFR Part 52, dated April 18, 1989 (54 FR 15372). The Commission contemplated that the Commission itself would make the ultimate decision on the 10 CFR 52.103(f) petition, as well as the immediate action determination, based on a recommendation from the staff. This has not changed since the 1989 rule.

A 10 CFR 52.103(f) petition is not a petition for enforcement even though it must be processed under 10 CFR 2.206. Normally, decisions on 10 CFR 2.206 petitions are considered enforcement decisions not subject to judicial review on the merits of the decision. However, in litigation on the 1989 10 CFR Part 52 rule, the NRC stated that a decision on a 10 CFR 52.103(f) petition would be judicially reviewable because it is part of the decision to allow plant operation. The U.S. Court of Appeals for the District of Columbia, sitting *en banc*, agreed with this view, stating, "Part 52 employs § 2.206 not as a means for requesting enforcement, but as an integral part of the licensing process itself." *Nuclear Info. Res. Serv. v. NRC*, 969 F.2d 1169, 1178 (D.C. Cir. 1992).

C. Petitions to Modify, Suspend, or Revoke an Early Site Permit

Part 52 provides that a COL application may reference other NRC approvals, such as an ESP and/or a design certification. A referenced ESP has regulatory finality, but 10 CFR 52.39(c)(2) states that any person may file a petition requesting modification of the site characteristics, design parameters, or terms and conditions of an ESP, or requesting suspension or revocation of the permit. Similar to 10 CFR 52.103(f), the 10 CFR 52.39(c)(2) petition is processed in accordance with 10 CFR 2.206. Before construction commences, the Commission must consider the petition and determine whether any immediate action is required.¹ If the Commission grants the petition, it will issue an appropriate order. Granting the petition will not affect construction under the construction permit or COL unless the order is made immediately effective. The NRC has issued five ESPs, including three in 2007; a 10 CFR 52.39(c)(2) petition has never been filed.

DISCUSSION:

A. Processing 10 CFR 52.103(f) Petitions

The regulation at 10 CFR 52.103(f) directs the NRC staff to process petitions to modify a COL in accordance with 10 CFR 2.206, which permits any person to file a request to institute a proceeding pursuant to 10 CFR 2.202, "Orders," to modify, suspend, or revoke a license, or for any other enforcement-related action as may be proper. Requests must specify the action requested and set forth the facts that constitute the basis for the request. The NRC Executive Director for Operations assigns the request to an office director.

The NRC staff uses Management Directive 8.11, "Review Process for 10 CFR 2.206 Petitions," to implement this regulation. In accordance with this management directive, the staff reviews requests that raise health and safety issues without requesting enforcement action, such as allegations, by means other than the 10 CFR 2.206 process. In addition, the staff will not review a petition under 10 CFR 2.206 if the petitioner can seek to have its concerns addressed through participation in an ongoing adjudicatory proceeding. Finally, the 10 CFR 2.206 process is not used to address claims of deficiencies within existing NRC rules; such requests should be addressed as petitions for rulemaking.

¹ An immediate action determination might be necessary, for example, if the NRC issues a COL or construction permit referencing the ESP.

If the NRC determines that a request qualifies as a 10 CFR 2.206 petition, upon evaluation of the request, the appropriate office director would issue a decision, and, if warranted, the NRC would take appropriate enforcement action. The NRC may grant a request for enforcement-related action in whole or in part and may take other action to satisfy the concerns raised by the petition. The NRC may also deny the petition. Management Directive 8.11 also describes a process for making immediate action determinations during staff review.

A director's decision is filed with the Office of the Secretary. As stated in 10 CFR 2.206(c), the Commission will not entertain requests for review of a director's decision. However, within 25 days of a director's decision not to institute a proceeding or take other action in whole or in part, the Commission may on its own motion review that decision, in whole or in part, to determine whether the office director "abused his [or her] discretion." This review power does not limit in any way the Commission's supervisory power over delegated staff actions or the Commission's power to consult with the staff on a formal or informal basis about the institution of proceedings under 10 CFR 2.206.

The 10 CFR 2.206 petition process does not address all aspects of the 10 CFR 52.103(f) process. Therefore, the NRC staff recommends implementation of the following high-level guidance. The staff will update internal guidance as appropriate to reflect the Commission's decisions on the proposals made in this paper.

1. Staff Recommendation on Timing of a 10 CFR 52.103(f) Petition

The NRC staff recommends that the opportunity to file a 10 CFR 52.103(f) petition begin when a COL is issued. Allowing 10 CFR 52.103(f) petitions to be filed as soon as the COL is issued promotes efficiency and is consistent with the 10 CFR Part 52 policy of early issue resolution. An alternative of only allowing 10 CFR 52.103(f) petitions late in the construction period would be undesirable for several reasons: (1) the NRC would have less time to resolve petitions before operation, (2) petition resolution would be delayed until the most resource-intensive part of the construction period, and (3) resolving deficiencies identified at an advanced stage of construction may be more difficult than if the problems were identified earlier.

Also, while not explicitly addressed by 10 CFR 52.103(f), the staff infers from the surrounding regulatory context that the opportunity to file a 10 CFR 52.103(f) petition ends once the 10 CFR 52.103(g) finding is made. The focus of 10 CFR 52.103 is on processes related to the commencement of operation, so it is reasonable to conclude that 10 CFR 52.103(f) has a similar focus. This is consistent with the NRC's litigation position that 10 CFR 52.103(f) petitions are part of the NRC's decision to allow operation to begin. After the 10 CFR 52.103(g) finding, the decision on commencement of operation has already been made, so any subsequent petition to modify the terms and conditions of the COL should be processed as an enforcement action under 10 CFR 2.206, just as it would be for any other operating plant. The alternative of allowing 10 CFR 52.103(f) petitions after the 10 CFR 52.103(g) finding would blur the distinction between the 10 CFR 52.103(f) and 10 CFR 2.206 processes, could create

confusion over whether decisions on 10 CFR 52.103(f) petitions are subject to judicial review, and would unnecessarily duplicate functions already addressed by the existing 10 CFR 2.206 process.

2. Staff Recommendations on Immediate Action Determinations for a 10 CFR 52.103(f) Petition

The staff recommends that the Commission interpret 10 CFR 52.103(f) so that immediate action determinations focus on the commencement of operational activities before an NRC decision on the petition. The staff concludes that this is the proper scope of immediate action determinations because 10 CFR 52.103(f) focuses on the commencement of operation and because the licensed activities listed in the regulation (“fuel loading, low power testing”) relate to operation.

If this recommendation is adopted, an immediate action determination would only be necessary if (1) a decision on the petition is still pending, (2) the petition allegedly implicates some operational phase, such as fuel loading or low-power testing, and (3) such operational phase is imminent. Thus, the staff processing 10 CFR 52.103(f) petitions will need to maintain awareness of the ITAAC hearing schedule and the licensee’s fuel load and operation schedule to determine whether and when an immediate action determination is needed. Depending on when the petition is filed and how quickly the NRC staff can make a decision on it, an immediate action determination may be unnecessary. However, if a 10 CFR 52.103(f) petition is filed late in the construction period, the staff will need to expeditiously assess the petition for immediate action purposes.

When the NRC makes an immediate action determination, it should communicate this decision to the petitioner in writing. If the NRC determines that licensee action is needed, then an order would be necessary to require these actions. Further, 10 CFR 52.103(f) states that fuel loading and operation under the COL would not be affected if the petition is granted unless the order is made immediately effective. Consistent with this, if NRC review of the petition is still pending, fuel loading and operation shall be permitted in accordance with the COL and NRC regulations unless there is an immediately effective order (resulting from an immediate action determination) prohibiting or constraining fuel loading or operation.

In deciding whether to impose substantive requirements on a licensee as part of an immediate action determination, the staff recommends that the NRC determine whether such requirements are necessary to provide reasonable assurance of adequate protection of the public health and safety during operation while the petition is under review. This aligns with the adequate protection

standard used for immediately effective orders² and for interim operation decisions. Using the same standard is appropriate because an immediately effective order is necessary to require immediate action. Also, immediate action determinations are like interim operation decisions to the extent that both are used to determine whether the plant is allowed to operate, or whether there should be constraints on operation, pending completion of a process to assess the validity of an alleged safety issue.³

If this recommendation is adopted, the NRC should consider the following when determining whether immediate actions related to 10 CFR 52.103(f) petitions are necessary:

- Based on the NRC's assessment of the petition, is there reasonable assurance of adequate protection of the public health and safety during operation while the petition is under review?
- Can mitigation measures be taken to preclude potential safety consequences while the NRC is reviewing the petition?

3. Staff Recommendations for Coordinating 10 CFR 2.206 Petitions, 10 CFR 52.103(f) Petitions, and Petitions for Rulemaking Involving Certified Design Material

The staff recommends that for the period before the 10 CFR 52.103(g) finding, the NRC set up a process to coordinate action on 10 CFR 2.206 petitions, 10 CFR 52.103(f) petitions, and petitions for rulemaking regarding certified design material that licensed plants incorporate by reference. Petition processes are somewhat more complicated for COLs than for the operating fleet. Before the 10 CFR 52.103(g) finding is made, a petition to modify the terms and conditions of COLs might be filed under either 10 CFR 2.206 or 10 CFR 52.103(f). Also, the NRC might receive petitions regarding certified

² The NRC's Enforcement Manual, Part I, Section 2.7.2, states that immediately effective orders should discuss the NRC's finding that it "no longer has reasonable assurance that activities will be conducted without undue risk to the public's health and safety." The "without undue risk" and "adequate protection" formulations are equivalent. See "Revision of Backfitting Process for Power Reactors" (53 FR 20603, 20606; June 6, 1988).

³ In other respects, however, immediate action determinations and the interim operation process are different because interim operation decisions occur in the context of an ITAAC hearing and only after the Commission has determined that the petitioner has made a *prima facie* showing of a nonconformance with the acceptance criteria that is contrary to reasonable assurance of adequate protection of the public health and safety. The 10 CFR 52.103(f) process is not connected to the ITAAC hearing, and no robust showing is required to accept a 10 CFR 52.103(f) petition for further review. Thus, in making an immediate action determination, the NRC should independently assess the merits of the petitioner's claims rather than follow the interim operation practice, wherein a determination on the merits of the *prima facie* showing is avoided.

design information that the licensee has incorporated by reference. Petitions regarding certified design information might present a generic challenge to the design or might implicate the design only as it applies to a site- or plant-specific feature or practice. Moreover, it is possible that a member of the public would file a petition in accordance with one process when another process should be used.⁴ Depending on how the petition is filed, different NRC organizations would receive or process the petition. The petition might also be filed late in the construction period, when there is a greater need for expedited decision making.

As part of this coordination process, the NRC should promptly perform an initial assessment as to the appropriate process for the petition. This initial assessment should be made in a centralized fashion, and participants should include the NRC organizations that receive and process the various types of petitions, including the Office of the General Counsel. The staff recommends that it make the initial assessment, consistent with the requested delegations discussed herein. Such an integrated process would promote efficient and consistent decision making and would be especially beneficial for petitions submitted later in the construction period. The alternative of coordinating action on an ad hoc basis would result in inefficiency and delay.

Although the NRC might determine that a petition should be handled through a process other than 10 CFR 52.103(f), the petition might also assert that operation of a specific facility is unsafe (e.g., a generic challenge to a certified design that also challenges operation of a specific facility). Therefore, to the extent that a petition addresses safe operation at a specific facility, the staff recommends that the 10 CFR 52.103(f) immediate action determination process be applied. This recommendation is of particular importance for generic challenges to certified designs that should be processed as petitions for rulemaking. Although 10 CFR 2.802(e) provides that a petitioner may request the suspension of adjudicatory proceedings involving licensing pending a decision on a petition for rulemaking, the NRC staff does not believe that this remedy is well suited to 10 CFR Part 52 plants nearing operation. By its terms, 10 CFR 2.802(e) applies to licensing, but the 10 CFR 52.103(g) finding is a technical finding, not a licensing action. Also, the relevant adjudicatory proceeding would be the ITAAC hearing, but ITAAC hearings are limited to conformance with the ITAAC and do not encompass challenges to plant design. Further, the AEA directs the NRC to complete the ITAAC hearing on an accelerated schedule, which cautions against suspending the hearing pending the completion of a process outside the hearing's scope. For these reasons, the 10 CFR 52.103(f) immediate action

⁴ For example, the NRC might receive a 10 CFR 52.103(f) petition asserting that the certified design contains an error, but the Commission has stated a general policy preference for correcting certified design errors through rulemaking. See "Licenses, Certifications, and Approvals for Nuclear Power Plants" (72 FR 49352, 49382; August 28, 2007). Also, requests to suspend or revoke a COL would be cognizable only under 10 CFR 2.206, not 10 CFR 52.103(f). In addition, because the 10 CFR 52.103(f) process addresses the commencement of operation, a petition focusing on construction issues should be considered as a request for enforcement action under 10 CFR 2.206.

determination process seems superior to the 10 CFR 2.802(e) process in the context of generic challenges to certified designs referenced by 10 CFR Part 52 plants nearing operation.

In applying the 10 CFR 52.103(f) immediate action determination process to certified design information, the NRC might decide it is necessary to impose additional requirements on a plant-specific basis. A plant-specific order imposing requirements on certified design information must meet the requirements of 10 CFR 52.63(a)(4). This section requires, among other things, a showing that the additional requirements are necessary to secure compliance with the Commission's regulations applicable and in effect at the time the certification was issued, or to assure adequate protection of the public health and safety or the common defense and security.

4. The Commission Should Delegate 10 CFR 52.103(f) Decisions to the Staff

The staff recommends that the Commission delegate authority for 10 CFR 52.103(f) decisions to the staff, consistent with the Commission's previous delegation of the 10 CFR 52.103(g) finding in the SRM on SECY-13-0033. In SECY-13-0033, the NRC staff recommended that the 10 CFR 52.103(g) finding be delegated to the staff for several reasons:

- Similarly important decisions are also made by the staff, such as the issuance of COLs and operating licenses and the decision on restarting North Anna Power Station Units 1 and 2 (ADAMS Accession No. ML11308B405) following the August 2011 earthquake.
- The 10 CFR 52.103(g) finding is the culmination of the staff's construction inspection program and ITAAC notification reviews.
- There would be practical difficulties associated with the Commission making the 10 CFR 52.103(g) finding in support of interim operation given the Commission's role as the ultimate arbiter of contested issues in the hearing process.

In the SRM dated July 19, 2013, the Commission approved the staff's recommendation. In SECY-13-0033, the staff also informed the Commission that the NRC's review of a petition under 10 CFR 52.103(f) needs to be coordinated with decisions having the effect of allowing operation, including interim operation.

The staff believes several benefits may be gained by also delegating the authority for 10 CFR 52.103(f) decisions to the staff. Delegating these decisions to the staff will (1) promote consistency with the 10 CFR 2.206 process, in which the staff makes determinations, (2) ensure coordination with decisions having the effect of allowing operation, since the staff will make the 10 CFR 52.103(g) finding and implement any Commission decision allowing interim operation, (3) align with the Commission's 10 CFR 52.103(g) delegation to the staff, (4) reduce the number of steps in the decision making process, and (5) position

the Commission to efficiently focus on other important 10 CFR 52.103 activities (e.g., decisions on the hearing request, contentions after the deadline, interim operation, and any appeals).

The staff has the requisite expertise and infrastructure to properly evaluate these petitions. This includes established, effective communication protocols with the technical and construction inspection staff. Moreover, the Commission will still have an opportunity to become involved in the 10 CFR 52.103(f) process. Consistent with 10 CFR 2.206, the Commission may exercise its supervisory power over the staff or review the staff's decision. Also, as stated in *Yankee Atomic Electric Co.* (Yankee Rowe Nuclear Power Station), CLI-91-11, 34 NRC 3, 6 (1991), the Commission may directly rule on the petition if the issues it raises are of sufficient public importance.

Finally, delegation to the staff fully complies with the language of 10 CFR 52.103(f). Although 10 CFR 52.103(f) states that the Commission will make the immediate action determination, 10 CFR 52.1(b) makes 10 CFR Part 52 subject to the definitions in 10 CFR 50.2, "Definitions." "Commission" is defined by 10 CFR 50.2 as "the Nuclear Regulatory Commission or its duly authorized representatives." Therefore, the Commission can delegate this determination to the staff. For these reasons, the staff recommends that decisions on 10 CFR 52.103(f) petitions be delegated to the staff.

B. The Commission Should Delegate 10 CFR 52.39(c)(2) Decisions to the Staff

For reasons similar to those described above, the staff also recommends that the Commission delegate authority to the NRC staff for decisions on petitions to modify, suspend, or revoke an ESP in accordance with 10 CFR 52.39(c)(2). Delegating authority for 10 CFR 52.39(c)(2) petitions to the staff will (1) promote consistency with the 10 CFR 2.206 process, in which the staff makes determinations, (2) ensure coordination with decisions having the effect of allowing construction, since the staff would be responsible for issuing COLs or construction permits, (3) align with the Commission's 10 CFR 52.103(g) delegation to the staff, and (4) reduce the number of steps in the decision making process.

RECOMMENDATION:

The NRC staff recommends that the Commission delegate to the staff decisions on petitions filed under 10 CFR 52.103(f) for COLs and 10 CFR 52.39(c)(2) for ESPs. The staff also recommends that the Commission approve the staff proposals for the 10 CFR 52.103(f) process discussed in this paper as follows:

- The opportunity to file 10 CFR 52.103(f) petitions should begin with license issuance and end with the 10 CFR 52.103(g) finding.
- Immediate action determinations under 10 CFR 52.103(f) should focus on the commencement of operational activities prior to a decision on the petition. When deciding whether to impose substantive requirements on a licensee as part of an

immediate action determination, the NRC should determine whether these requirements are necessary for reasonable assurance of adequate protection of the public health and safety.

- For the period before the 10 CFR 52.103(g) finding, the NRC should establish a process for coordinating action on 10 CFR 2.206 petitions, 10 CFR 52.103(f) petitions, and petitions for rulemaking regarding certified design information that a COL holder incorporates by reference. If one of these petitions addresses safe operation at a specific facility, the 10 CFR 52.103(f) immediate action determination process should be used to address commencement of operational activities pending a decision on the petition.

COORDINATION:

The Office of the General Counsel has reviewed this paper and has no legal objection.

/RA/

Victor M. McCree
Executive Director
for Operations

immediate action determination, the NRC should determine whether these requirements are necessary for reasonable assurance of adequate protection of the public health and safety.

- For the period before the 10 CFR 52.103(g) finding, the NRC should establish a process for coordinating action on 10 CFR 2.206 petitions, 10 CFR 52.103(f) petitions, and petitions for rulemaking regarding certified design information that a COL holder incorporates by reference. If one of these petitions addresses safe operation at a specific facility, the 10 CFR 52.103(f) immediate action determination process should be used to address commencement of operational activities pending a decision on the petition.

COORDINATION:

The Office of the General Counsel has reviewed this paper and has no legal objection.

/RA/

Victor M. McCree
Executive Director
for Operations

ADAMS Accession No. ML16159A251

SECY-012

OFFICE	PM:NRO/DEIA*	LA :NRO/DEIA*	BC:NRO/DEIA	D:NRO/DNRL	D:NRO/DCIP
NAME	AJohnson	BAbeywickrama	JColaccino	FAkstulewicz	MCheok
DATE	07/11/16	07/08/16	07/12/16	07/22/16	07/20/16
OFFICE	Tech Editor*	D:NRO/DEIA	BC:NRR/DPR*	OGC	D:NRO
NAME	QTE	MMayfield	SStuchell	MASpencer	JUhle
DATE	07/20/16	08/03/16	07/28/16	08/18/16	09/29/16
OFFICE	EDO				
NAME	VMcCree				
DATE	01/17/17				

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