



NEI/Industry Comments on the Scope of Part 52 Lessons Learned Rulemaking and Schedule

November 20, 2019

Suggestions for 10 CFR Part 52 LL Rulemaking

Changes during construction and construction to licensing basis challenges are created by NRC's position that as soon as the COL is issued there is an approved licensing basis and the licensee, therefore, needs to be in compliance with its licensing basis at all times regardless of whether there is any impact to the health and safety of the public.

ITAAC verification and construction oversight via licensee programs (e.g., quality control), as well as implementation of operational programs, ensure that the facility has been constructed and will operate in accordance with its license.

Restrictions should be removed thus allowing temporary deviation from the approved licensing basis during construction where configuration control, corrective measures or license amendments are implemented that restore conformance of the plant with its licensing basis. 10 CFR 52 when created was intended to ensure better control over standardization. The unintended consequence of hindering construction was not fully understood at that time.

Modify NRC interpretation to allow at-risk construction pending approval of an LAR or the processing of a 50.59-like change.

This interpretation would acknowledge the potential for LARs to be denied. Changes at risk would need to be subject to configuration control to ensure that if the LAR is not approved or the licensee does not or cannot process a 50.59-like change, the change at risk will be reversed in the field.

Suggestions for 10 CFR Part 52 LL Rulemaking

S-COLA applicants need a process that avoids COL delays due to generic design issues encountered by the preceding COL licensees during construction of the FOAK (or first few of a kind) plant. Given the finality granted to certified designs, a process should be established to clearly allow S-COLAs to complete the process of obtaining a COL while generic design issues are resolved in an approach that maintains standardization. Without such a process, regulatory certainty for S-COLAs under review is reduced or eliminated.

Establish a process that precludes construction of affected SSCs until known design errors are resolved.

Options for addressing this issue were identified in NRC letter to NEI dated May 9, 2018 (ML18123A245).

The preferred option for doing this is through the use of COL license conditions that identify the design error;

- Require a license amendment (or design certification amendment) to correct the error prior to the 10 CFR § 52.103(g) finding; and
- Specify the design methodology for correcting the error and the acceptance criteria for the design.

Suggestions for 10 CFR Part 52 LL Rulemaking

SOC for 10 CFR 52 LL Rulemaking	Need to clarify “essentially complete” design as used in 52.41.	<p>Clarify “essentially complete” design to restore original intent with respect to the scope/breadth of a standard design, not the depth or level of detail.</p> <p>Note that NRC Reg Review Roadmap for non-LWRs correctly refers to “essentially complete (in scope).”</p>
Subpart B of 10 CFR 52	Currently, it is NRC’s practice to require a DC applicant to submit a complete application prior to docketing or beginning its review.	<p>Allow DC/COL applicants the option of early submittal of segregable parts of the application that can be reviewed independently.</p> <p>This is permitted under Subpart E (SDA) and guidance is being developed.</p>

Suggestions for 10 CFR Part 52 LL Rulemaking

SOC for 10 CFR 52 LL Rulemaking	Strong emphasis on standardization and finality creates challenges in implementing 10 CFR 52 for first-of-kind designs/applicants.	Revisit the balance struck between standardization/ finality and flexibility, especially for first of kind applicants, and make rule changes, as appropriate. This effort should also include consideration of the appropriate level of detail to be included in the application and licensing basis is also a key factor in providing flexibility to make changes during construction for issues that have no potential to impact the safety determination.
Primary Requirement in the Regulations (10 CFR)	Category/Item Summary	
52.63(a)(1)(vii)	This paragraph specifies that a change in a design certification may not be imposed unless it contributes to an increase in standardization of the certified information. The staff is considering whether this provision should be modified or eliminated. The staff is considering this change because lessons learned in the evaluation of licensing amendments for facilities referencing the AP1000 certified design showed that this requirement is an increased burden without a corresponding benefit to maintaining reasonable standardization.	

Need to better understand NRC intentions for changing the balance struck between standardization, finality and flexibility, especially for first of kind applicants.

Suggestions for 10 CFR Part 52 LL Rulemaking

10 CFR 52 - TBD	The 50.59 process and departure process are similar in regulation but have been interpreted somewhat differently.	Directly use the 50.59 process for Part 52 regulatory changes.
-----------------	---	--

Need to better understand NRC's intended changes for the use of 50.59.
aligning the change process for DCs with 10 CFR 50.59;

Is there a plan to establish a similar process for an SDA?

Suggestions for 10 CFR Part 52 LL Rulemaking

10 CFR 70 and 10 CFR 74	Modify the provisions on material control and accounting to eliminate the need for exemptions for new plants.	10 CFR 70 and 10 CFR 74 Vogtle COL authorized exemptions to 10 CFR 70.22(b), 10 CFR 70.32(c), 10 CFR 74.31, 10 CFR 74.41, and 10 CFR 74.51 because the licensees meet the requirements of 10 CFR 70.17 and 74.7
-------------------------	---	--

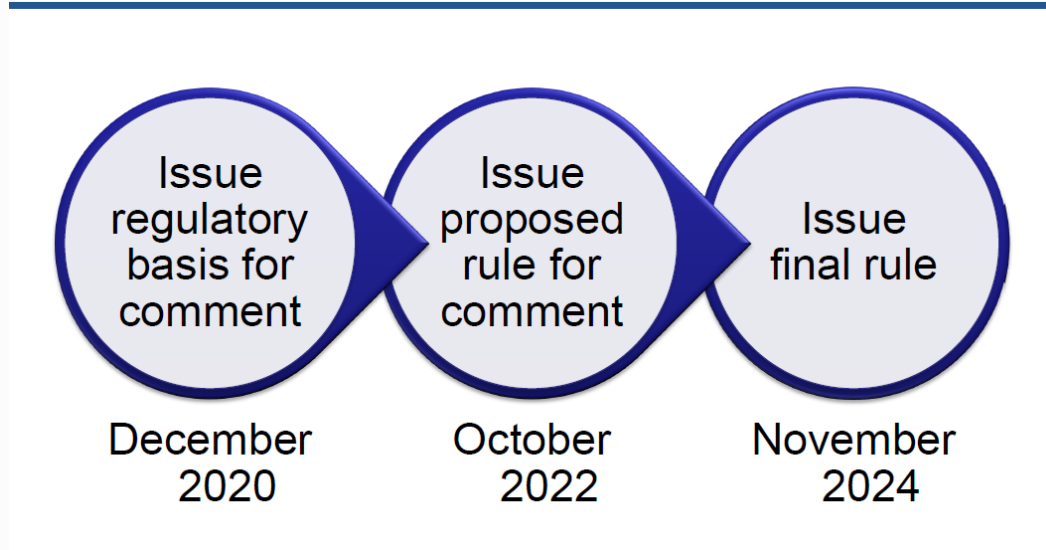
As a part of the Lessons Learned activities NRC should consider all exemptions and LARs for Vogtle 3& 4 to determine generic applicability and the need to address process improvements and reduce burden in rulemaking

Suggestions for 10 CFR Part 52 LL Rulemaking

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.
-----------	--	--

The breadth and scope of the Part 20 review poses undue burden and exceeds what should be within the scope of the design certification / SDA / COL processes.

NRC Rulemaking Schedule Alignment with Industry Needs



- Potential for Acceleration of the rulemaking schedule would be beneficial to near term applicants
- Is the rulemaking priority and resources pushing out the schedule?
- Certification renewal requirements, and by association, the design certification expiration date