



UNITED STATES
NUCLEAR REGULATORY COMMISSION
ADVISORY COMMITTEE ON REACTOR SAFEGUARDS
WASHINGTON, D. C. 20555

October 16, 1992

The Honorable Ivan Selin
Chairman
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Chairman Selin:

SUBJECT: SECY-92-287, "FORM AND CONTENT FOR A DESIGN CERTIFICATION
RULE"

During the 390th meeting of the Advisory Committee on Reactor Safeguards, October 8-10, 1992, we reviewed SECY-92-287, "Form and Content for a Design Certification Rule." Our Subcommittee on Improved Light Water Reactors also discussed this matter on September 23, 1992. During these meetings, we had the benefit of discussions with representatives of the NRC. We also had the benefit of the documents referenced.

The staff is proposing the form and content for a design certification rule, in accordance with 10 CFR Part 52-Subpart B, which implements the intent of Part 52.

The staff proposes that any rulemaking changes to Tier 2 information requested by the NRC staff or a third party are to be governed by the backfit standard of 10 CFR 50.109(9)(a)(3). We note that this is inconsistent with previous Commission guidance given in the Staff Requirement Memorandum (SRM) regarding SECY-90-377 that "... the staff should be held to the backfitting standards of 10 CFR 52.63 for all matters resolved in the design certification rulemaking (in both tiers 1 and 2)." We recommend that the staff adhere to the Commission guidance in this regard, and apply the "adequate protection" standard to such changes.

The proposed rule would require the consolidation of all the design-related information into a single stand-alone document called the Design Control Document (DCD). The DCD would contain the two-tiered design-related information that would be extracted by the applicant from its application for design certification. Tier 1 includes the design information that is relied upon as the fundamental basis for the staff's safety review. It would include the design description, inspections, tests, analyses, and acceptance criteria (LMACs); site parameters; and interface requirements. Tier 2 is the remainder of the design-related

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information that is used in support of the certified standard design. The staff would review the DCD and provide its evaluation in a final safety evaluation report (FSER) for the design. The DCD would be referenced in the proposed standard design certification rule.

We recommend that you approve the staff's proposed form and content for a Part 52 Standard Design Certification Rule, subject to the following comments.

The staff does not propose to include its FSER as an integral part of the DCD. However, the FSER should be given clear standing for future interpretation of the rule, analogous to the manner in which a statement of consideration serves for other rules.

It is our opinion that, irrespective of the degree of care and effort applied to minimize the potential for ambiguities or inconsistencies, such problems will arise within the large volume of DCD material and with its evaluation in the FSER. Items not clarified in Tier 1 will have to be examined and settled on an ad hoc basis by consideration of intent at the Tier 2 level. Such an examination should include both the FSER and applicant documents.

On the question of secondary references, we propose that all documents and references that were considered important to the staff in making its final safety determination be identified in the FSER. These should be the only references to be designated as "resolved." Copies of those references that are not readily available should be included in the application for certification.

Sincerely,



David A. Ward
Chairman

References:

1. SECY-92-287, dated August 18, 1992, from James M. Taylor, Executive Director for Operations, NRC, for the Commissioners, Subject: Form and Content for a Design Certification Rule
2. Memorandum dated February 15, 1991, from Samuel J. Chilk, Secretary of the Commission, for James M. Taylor, Executive Director for Operations, NRC, Subject: SECY-90-377 - Requirements for Design Certification Under 10 CFR Part 52
3. Staff Requirements Memorandum M920908, dated September 30, 1992, from Samuel J. Chilk, Secretary of the Commission, for James M. Taylor, Executive Director for Operations, NRC Subject: Form and Content for a Design Certification Rule Follow-up to SECY-90-016 (SECY-92-287)



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WASHINGTON, D.C. 20555

ACTION - Murley, NRR

Cys: Taylor
Snielek
Thompson
Blaha

September 30, 1992

IN RESPONSE, PLEASE Beckjord
REFER TO: M920908 Jordan
Scroggin

MEMORANDUM FOR: James M. Taylor
Executive Director for Operations

William C. Parler
General Counsel

FROM: Samuel J. Chilk, Secretary

SUBJECT: STAFF REQUIREMENTS - BRIEFING ON ADVANCED AND
EVOLUTIONARY REACTOR TOPICS: FORM AND
CONTENT FOR A DESIGN CERTIFICATION RULE AND
FOLLOW-UP TO SECY-90-016 (SECY-92-287), 10:00
A.M., TUESDAY, SEPTEMBER 8, 1992,
COMMISSIONERS' CONFERENCE ROOM, ONE WHITE
FLINT NORTH, ROCKVILLE, MARYLAND (OPEN TO
PUBLIC ATTENDANCE)

The Commission¹ was briefed by the NRC staff on the form and content proposed for a design certification rule and on some of the technical issues on which the staff are continuing to work.

The staff should review the SRM on SECY-90-377, dated February 15, 1991, to resolve apparent inconsistencies between the direction provided in that SRM and the change process described in SECY-92-287. In that SRM, the Commission stated that the staff should be held to the backfitting standards of 10 CFR 52.63, which is the Part 52 backfitting regime, for all matters resolved in the design certification rulemaking (in both tiers 1 and 2). In that same SRM, the Commission also directed that the change process for Tier 2 information only be allowed between COL issuance and authorization for operation.

After completing this review, the staff should provide the Commission with recommendations for the design certification change process with supporting justification for any recommended variations from the earlier Commission guidance provided in the SRM on SECY-90-377.

(PBO)- (NRR)

(SECY Suspense: 11/20/92) 9100065

¹ Commissioner de Planque was on leave and did not attend this briefing.

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The Commission raised the question concerning proprietary information in the design certification process. The staff reported that they are continuing to analyze the issue and will provide the Commission recommendations in the near future.

(OGC)

(SECY Suspense: 10/30/92)

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(OGC)*

The staff should review the pros and cons of providing a separate appendix for generic requirements applicable to all design certification applicants as opposed to incorporating all the requirements for each applicant in a single appendix. The resulting recommendation should be forwarded to the Commission for approval.

~~(EDO)~~- (NRR)

(SECY Suspense: 11/20/92) 9100065

The Commission would like the ACRS and the staff to continue their discussions on diversity in digital instrumentation and control systems and for staff to interact further with the vendors.

cc: The Chairman
Commissioner Rogers
Commissioner Curtiss
Commissioner Remick
Commissioner de Planque
OCAA
OIG
ACRS
PDR - Advance
DCS - P1-24