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U.S. NUCLEAR REGULATORY COMMISSION

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PUBLIC MEETING ON

DESIGN CERTIFICATION RULEMAKING

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THURSDAY,

MAY 11, 1995

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ROCKVILLE, MARYLAND

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The public meeting was held in the Auditorium,
NRC Building 2, Two White Flint North, Room T2B3, 11545
Rockville Pike at 9:00 a.m., Jerry Wilson, presiding.

PRESENT:

JERRY N. WILSON

MARTIN MALSCH

DENNIS CRUTCHFIELD

HARRY S. TOVMASSIAN

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1 ALSO PRESENT:

2 RALPH ARCHITIEL, NRC/ADAR

3 ROY AULUELE, NRC/RES

4 J. ALAN BEARD, G.E.-N.E.

5 RUSS BELL, Nuclear Energy Institute

6 STAN BLANTON, SO CO

7 TOM BOYCE, NRC/NRR/PDST

8 CHARLES BRINKMAN, ABB - Combustion Engineering

9 MICHAEL J. CASE, NRR

10 TERENCE L. CHAN, OCM

11 JOE CLEARY, Pacific Northwest Laboratory

12 BARTON COWAN, Eckert, Seamans, Cherin & Mellitt

13 JOSEPH R. EGAN, Egan & Associates, P.C.

14 STERLING FRANKS, DOE

15 STEVE FRANTZ, Morgan, Lewis & Bockius

16 MELVIN W. GMYREK, Nuclear Energy Institute

17 HERMAN GRAVES, NRC/RES

18 PAUL GUNTER, Nuclear Information and Resource

19 Service

20 ALISTAR HOWARD, PEPCO

21 ROGER HUSTON, TVA

22 LAWRENCE E. KOKAJKO, NRC

23 NILS LAMNETORS, Embassy of Sweden

24 STEWART MAGRUDER, NRR/ADAR

25 CATHERINE MARCO, NRC

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1 ALSO PRESENT: (cont.)

2 A. MASCIANTONIO, NRC/PIPB

3 BRIAN McINTYRE, Westinghouse

4 GEARY S. MIZUNO, OGC

5 JANICE MOORE, NRC

6 TED QUAY, NRC/NRR/PDST

7 LOUIS N. RIB, LNR Associates

8 MARCUS ROWDEN, Fried, Frank

9 TERRY G. RUDEK, ABB

10 MARK O. SANFORD, TVA

11 DINO SCALETTI, NRR/AOAR

12 FRANK SCIACCA, SEA

13 RON SIMARD, Nuclear Energy Institute

14 B. K. SIMMS, NRC

15 MIKE STEIN, NRC, OGC

16 DAVIS TANG, NRC

17 GEORGE THOMAS, NRR

18 PHILIP E. TROY, Morgan, Lewis & Bockius

19 ROBERT M. WEISMAN, NRC

20 GILBERT ZIGLER, SEA

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P R O C E E D I N G S

(9:02 a.m.)

PANELIST WILSON: My name is Jerry Wilson.

I'm the NRC's lead for design certification rulemaking.

I'd like to welcome you to our public meeting on two of the design certification rules.

This meeting is being recorded. If you would like to make a statement or ask a question, please use the microphone and state your name. I want to remind everyone we had a registration form in back and would like everyone to sign that. And we'll attach that to the transcript also.

With me today at this panel on my right is Mr. Tovmassian from Division of Regulatory Applications in the Office of Research; to his right Mr. Malsch, who is Deputy General Counsel; and, finally, Mr. Crutchfield, who is the Associate Director for Advanced Reactors in the Office of Nuclear Reactor Regulations.

The purpose of today's meeting is to respond to questions about our proposed rules, to clarify the meaning and intent of the provisions in the two rules that we have issued and to facilitate your written comments.

Now, we're going to address the written comments, not necessarily comments here in the meeting today, when we prepare our final rule. So any comments

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1 you want to make, be sure you submit them in writing. And
2 if your comments rely on other documents, it would
3 facilitate our effort if you could attach those documents
4 to your comments also.

5 Now, I'm going to give a little background on
6 our rule, but I'm not going to spend much time on that. I
7 want to have our discussion primarily in response to
8 questions. I just want to point out that we have been
9 working on design certification here at the NRC for a long
10 time.

11 We have had two applications that we have been
12 reviewing since 1987. Those are the advanced boiling
13 water reactor design submitted by General Electric and the
14 System 80+ design submitted by Combustion Engineering.

15 During that time we have developed our process
16 and performed our reviews of these two designs. Something
17 that's not typical for a normal proposed rule at this
18 stage is that we have had earlier versions of this rule
19 published and have received comments on them.

20 So in 1992 we issued an earlier version of the
21 rule and received comments on them. Then we had an
22 advance notice of proposed rulemaking in 1993. And the
23 proposed rules that were recently issued in April of this
24 year were basically the same as what we had in the advance
25 notice of proposed rulemaking.

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1 Now, we've also had public meetings in '92 on
2 the procedures for design certification rulemaking. And
3 procedures that are set out in the Federal Register are
4 based on those interactions.

5 And, finally, I want to make a point that
6 during the time we were doing this effort, there have been
7 questions about the resource availability that the NRC had
8 to perform these reviews. Our Chairman has frequently
9 said that we have two runways here at the NRC. And with
10 the issuance of two design certification rules on the same
11 date, I think we can say that both runways are
12 functioning.

13 Now, the rule itself I have an outline here of
14 what's in the proposed rules. I'll just point out a
15 couple of sections and their importance. In Section 4, in
16 "Contents," we reference, we incorporate by reference, the
17 design control document. That document describes a
18 resolution of all of the safety issues that we resolved in
19 this rulemaking.

20 And we have both of those documents in the
21 back of the room. On my left is the design control
22 document for the advanced boiling water reactor. And on
23 the right in the back is the System 80+ design control
24 document.

25 And if you have questions or would like to

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1 take a look at that after the close of the meeting, please
 2 feel free to go back and look at that document. We have
 3 project managers back there who are ready to answer your
 4 questions. And you can find out anything you want to know
 5 about that.

6 Section 5 we describe the regulations that
 7 were applicable to this design review. And in Section 6
 8 we identify the documents that describe the safety issues
 9 that are resolved. That's not only the design control
 10 document, but also we perform environmental assessments
 11 dealing with design alternatives. And we have copies of
 12 those up here in the front if you'd like to take a look at
 13 that.

14 Section 8 of the rule has to do with the
 15 change process. The point here is that we want to have a
 16 restrictive change process. We're not trying to encourage
 17 changes. The goals of design certification, as you see
 18 here on the bottom, including standardization and
 19 stability. And you facilitate that by resolving issues
 20 and then preserving those resolutions. And so you'll see
 21 a very restrictive change process in Section 8.

22 And, finally, Section 9 is dealing with
 23 keeping records.

24 Now, we believe that our proposed rules have
 25 achieved the Commission's goals associated with design

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1 certification. And we think we have two good proposed
2 rules that we're seeking your questions and comments. The
3 comment period closes on August 7th. And, as I say, we'll
4 address all of those comments in the preparation of the
5 final rule.

6 Now, I don't have any other prepared remarks.
7 I think what I want to do is just open up to questions or
8 comments about the rules. As I say, what we're trying to
9 do is be sure that you understand what we're proposing
10 when you make your comments.

11 So, with that, let me open up the meeting to
12 questions or comments. Yes?

13 MR. SIMARD: Good morning. My name is Ron
14 Simard from the Nuclear Energy Institute. We represent
15 the electric utility companies, the major designers,
16 architect/engineers, other organizations with an interest
17 in commercial uses of nuclear power.

18 I have five questions that I'd like to ask by
19 way of seeking clarification of the staff's intent in the
20 proposed rules. I'd just like to explain the nature of
21 the questions.

22 I'd like to point out that in that extensive
23 record that Mr. Wilson summarized, over several years the
24 implementation of the goals that were at the bottom of
25 that Vu-Graph, how we achieve them in practice has been a

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1 subject of intense interest and interactions, not only
2 among the NRC staff and the industry, but also on the part
3 of the United States Congress.

4 And in the years while these interactions have
5 been going on, many issues have been addressed through
6 this process. And many of these issues have been resolved
7 in our view fully in concert with those underlying
8 principles that were at the bottom of Mr. Wilson's slide.
9 In our view many of these issues have not yet been
10 resolved.

11 But in keeping with the spirit of this
12 workshop, I'd just like to explain that our questions are
13 focused on aspects of the proposed rules where
14 clarification would help us better understand the staff's
15 position. Our intent was not to use this forum to pursue
16 those areas where we think the rules may be clear but we
17 disagree with the staff's approach to implementation of
18 some of those goals.

19 I say that to emphasize that our lack of
20 questions or comments in any special area today should not
21 be interpreted as agreement with the staff proposals, but
22 again, in response to Mr. Wilson's request, we will be
23 addressing those in the public comment period.

24 Having said that, I'd like to ask five
25 questions which would be helpful to us. The first one has

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1 to do with your process. Could you please explain the
2 process that you expect to follow and the estimated
3 schedule for evaluating public comments on these proposed
4 rules and then proceeding to final version?

5 . PANELIST WILSON: Yes. In anticipation, I
6 have a schedule here for one of the proposed rules. This
7 is for System 80+.

8 Let me point out, first of all, that this is
9 strictly for planning purposes. The schedule it will take
10 to complete the final rules will depend on whether or not
11 we have hearings and how many comments we have and the
12 controversy associated with those comments.

13 So, for planning purposes, you can see the
14 comment period closes in August of this year. We expect
15 that we will be able to analyze and resolve comments by
16 the end of the year and prepare a paper for Commission
17 consideration on that. And assuming a normal amount of
18 comments and no hearing, we expect that in March of '96
19 that we should be completed with the final rule. Now, as
20 I say, that's not cast in stone. It depends on what
21 happens.

22 Now, as you know, there's an opportunity to
23 request a hearing. That opportunity to make a request
24 also closes on August 7th. And whether or not there are
25 petitions, we'll have to wait and see. And the Commission

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1 will decide whether or not we'll have a hearing.

2 So that is the predominant effect on the
3 schedule. Anything else with regard to that that we could
4 answer?

5 MR. SIMARD: No thank you.

6 My second question has to do with the use of
7 the terms "COL license information" and "COL action
8 items." These two terms are used to describe the same
9 thing in the two design control documents, namely they
10 refer to matters that need to be addressed by an applicant
11 or by a licensee that references the design certification.
12 In addition, we note that in the System 80+ design control
13 document there's an additional term, "COL information
14 items."

15 We assume that the staff sees no distinction
16 between these terms. For clarity, would the staff
17 consider standardizing on the terms used in the respective
18 design control documents; that is, the use of the phrase
19 "COL information items" for the System 80+ and the phrase
20 "COL license information" for the ABWR?

21 PANELIST WILSON: First of all, we don't
22 distinguish between those terms. And we didn't feel that
23 the name use was that important. So while GE and CE chose
24 different terms, that wasn't significant to the NRC.

25 In terms of standardizing, I will say that the

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1 initial term chosen was "COL action items." And I think
2 that's more descriptive of the situation.

3 As you say, the COL applicant needs to address
4 each of these items. So there's some sort of action that
5 they have to take. But the actual term used isn't that
6 important to us.

7 I do agree that it would be useful if we could
8 find one term that could apply to everyone.

9 MR. SIMARD: Thank you.

10 My next question has to do with the references
11 to the use of a 50.59-like process. We note a difference
12 between the rule language and the supplementary
13 information. Let me give you the examples.

14 In the rule language, Section 8(b)(5)(i)
15 states the criterion for Tier 2 changes as follows, "An
16 applicant or licensee who references the design
17 certification may depart from Tier 2 information" -- and
18 here I'm going to emphasize a phrase -- "without prior NRC
19 approval, unless the change involves a change to Tier 1,
20 Tier 2*, the tech specs, or an unreviewed safety
21 question."

22 Now, by contrast, the language in the
23 supplementary information seems to establish an additional
24 criterion when it states that "Tier 2 changes that do not
25 involve an unreviewed safety question or change to tech

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1 specs, Tier 1, Tier 2*," et cetera, "can be made without
2 prior NRC approval" -- and, again, now I'll quote what
3 seems to be an additional criterion -- "unless the change
4 involves an issue that the NRC staff has not previously
5 approved."

6 We assume that the NRC staff did not by that
7 last phrase intend to establish via these proposed rules
8 an additional criterion for the 50.59-like process. And
9 our question is: If this language, that phrase that I
10 emphasized in the supplementary information, is carried
11 forth to the statement of considerations for the final
12 rule, will those words be revised to be consistent with
13 the proposed rule language in Section 8(b)(5)(i)?

14 PANELIST WILSON: When we were writing that,
15 we weren't intending to characterize a new criterion or
16 different criterion, but, rather, what I would say is an
17 explanation of the existing criteria.

18 I have in this outline here shown the change
19 process for Tier 1 and Tier 2. The section you're
20 discussing is down here in the lower right-hand corner, as
21 you've characterized it correctly.

22 The point I think we were trying to make is
23 that if a utility that references this certified design
24 was changing something in Tier 2 and identified a new
25 issue that wasn't described in Tier 2, then by definition

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1 that's an unreviewed safety question. So that reference
2 was to the thought that that was an unreviewed safety
3 question and not a new criterion.

4 Now, it may be that we're miscommunicating on
5 this. And maybe in your comments you could address this
6 some more, perhaps with an example. And we can look at
7 that again and be sure that we're not misstating the
8 actual interpretation of that guidance.

9 And while we're talking about that, let me
10 point out that in the change process, not everything is
11 resolved. We still have some more work to do. And let me
12 give a few examples that may be helpful to this
13 discussion.

14 First of all, in design certification we are
15 resolving a portion of the safety issues associated with a
16 nuclear power plant, a large portion, but not all of it.
17 If an applicant for a combined license came in and
18 referenced this design certification rule, there is some
19 additional information they have to provide, such as
20 site-specific design features and things that a utility is
21 responsible for, procedures. And this gets back to your
22 COL action items, some of those that were identified as we
23 did this review.

24 Now, that information when it comes in, there
25 is going to have to be a related change process for that

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1 information, probably different than the existing change
2 process for operating plants because it will have to
3 reflect the certified design information.

4 And so that's the purpose of Question 3 in our
5 Federal Register notice, is we're seeking comments on how
6 people think we need to address that information. We
7 think it's time to start thinking about that.

8 And also within the level of information
9 that's in Tier 2, there's also an underlying supporting
10 level of engineering information that was not needed for
11 the staff to make its safety findings but, in fact, does
12 exist at the designers.

13 Now, as that information is being created
14 during the final design and the construction phase,
15 there's an obligation to be sure that that information
16 doesn't conflict with the information in the design
17 control document. So there's that lower level of
18 information that's not in the change process here, but it
19 does have to be in conformance with what's been approved
20 in the design control document.

21 And, finally, one of the provisions that Mr.
22 Simard mentioned was Tier 2*. We're also seeking comments
23 on the change process for Tier 2*. And that's Question
24 Number 7.

25 As you look at this, you'll see that there are

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1 provisions here on how to change various information, but
2 we don't have one on what process you would use if you
3 want to change Tier 2*. And we're considering whether to
4 add that in at the final rule stage. And so that's why
5 we've asked Question Number 7. That's all I have on that.

6 MR. SIMARD: Thank you. I think you may have
7 addressed, then, what was going to be my next question
8 because there is a reference in Section 3 of the rule,
9 Section 3(h). To help you locate that, it's on the bottom
10 of Page 17912 of the Federal Register notice, the bottom
11 of the middle column. And it's a reference to the process
12 for evaluating proposed tests or experiments not described
13 in Tier 2 that will be developed for a COL that references
14 the design certification.

15 I assume this is what you just touched on.
16 And even though you don't specifically call for public
17 comment on that in Section 4, I assume that you would like
18 public comment on how that might be implemented.

19 And if so, can you be more specific with
20 respect to the process that you characterize as yet to be
21 developed and the nature of the comment that you're
22 looking for from the public?

23 PANELIST WILSON: Yes. The question would
24 also be Question 3, as I said before in response to this.

25 At the time we were writing the provision

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1 8(b)(5), which is the provision you had used if you want
2 to change Tier 2 information and you made the
3 determination whether you had to get NRC approval in
4 advance or not, if you look at the parallel provision in
5 Part 50.59, it also refers to tests or experiments that
6 the operator may perform.

7 We deliberated on whether or not we should
8 include that in the change provision for the design
9 certification rule or put that in the change provision for
10 the COL information because it really deals with cations
11 that the COL applicant or licensee would take.

12 And for the purpose of the proposed rule, we
13 left it out, but we put this question in there. And we
14 need to get comments on that.

15 Now, arguably we could have it in either
16 place. On the one hand, if we kept it in the change
17 process for the design certification rule, you would have
18 all of those facets in one process -- and maybe that's the
19 best way to go -- or you could leave it for the change
20 process we'll have to develop for the COL information.
21 And it would apply more directly to procedures and things
22 that the licensee is performing.

23 As I say, we can go either way on that. And
24 we'd be interested in your views on that, on which would
25 be the better place to put it. And that's the point we

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1 were getting at when we mentioned tests and experiments,
2 that we didn't address it in 8(b)(5), but it needs to be
3 addressed somewhere.

4 MR. SIMARD: Thank you.

5 My final question has to do with a reference
6 in Topic 3 in the supplementary information. Exemptions
7 from Tier 1 or Tier 2 require prior NRC approval, and
8 they're subject to an opportunity for a hearing. In
9 Section 2, Topic 3, the proposed rule, there's a statement
10 that Tier 1 and Tier 2 exemptions "lose issue preclusion."

11 Because exemptions from either tier require
12 prior NRC approval and an opportunity for public hearing,
13 presumably resulting in finality of these granted
14 exemptions, that statement is unclear to us.

15 We interpret it to mean that exemptions have
16 no issue preclusion only while pending any hearing and NRC
17 granting of the exemption. Is that interpretation
18 correct?

19 PANELIST WILSON: I'll ask Mr. Malsch to jump
20 in on this, but basically I think that once you have
21 changed the information in the DCB, whatever issue
22 preclusion is associated with that information is lost.

23 I think that's the view that the Commission
24 has, that the new information is different than what was
25 approved and certified in this rulemaking process. And so

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1 whatever issue preclusion associates with that does not
2 come forward to the new information.

3 Is that reasonable, Marty?

4 MR. SIMARD: And does that state continue even
5 after the NRC review and action on that exemption and the
6 granting of it? That state continues even past that point
7 in time?

8 PANELIST MALSCH: Let me be more precise. I
9 think what we intended to say was if you grant an
10 exemption from Tier 1 or Tier 2, then it follows that Tier
11 1 or Tier 2 no longer apply with respect to the issues
12 covered by the exemption.

13 What we intended to say then is that the issue
14 preclusion associated with the rulemaking of Tier 1/Tier 2
15 would not apply and would never apply unless and until
16 there were rulemaking to amend Tier 1 and Tier 2 to
17 incorporate for some provisions of exemption. That would
18 be true indefinitely.

19 However, there would be -- I'm not sure you
20 want to call it issue preclusion, but a sort of issue
21 preclusion associated with whatever process leads to
22 granting of the exemptions. Whatever that is, that would
23 be associated with the exemption grant.

24 So, for example, if we granted an exemption
25 from Tier 2 as a part of a combined licensing proceeding

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1 and the combined license was issued, then whatever issue
2 preclusion was associated with issues of the combined
3 licensing proceeding would then also apply to the granting
4 of that exemption.

5 So when we say issue preclusion would be lost,
6 what we intended to be saying more precisely was that the
7 issue preclusion associated more uniquely with a design
8 certification rulemaking would be lost.

9 PANELIST WILSON: Thank you, Marty.

10 Did that help or --

11 MR. SIMARD: That answered my question. That
12 is the end of my questions. Thank you for the
13 opportunity.

14 PANELIST WILSON: Thank you.

15 Do we have other questions or comments
16 concerning our proposed rules? Yes, please?

17 MR. GUNTER: Thank you. My name is Paul
18 Gunter, and I'm with Nuclear Information and Resource
19 Service here in Washington. I guess I'd like some
20 clarification with regard to the NRC decision to prepare
21 environmental impact statements on these two designs.

22 There are two areas that I think draw this to
23 our attention, and we'd be interested in getting your
24 answer before we prepare comment. One has to do with the
25 seismic qualification for the ABWR.

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1 Now, I understand that GE's got an ABWR under
2 construction in Japan. Am I correct on that?

3 PANELIST WILSON: There's a version of the
4 design that is being certified by this proposed rule
5 that's being built in Japan, but it's not exactly the
6 same.

7 MR. GUNTER: Okay. But similar?

8 PANELIST WILSON: Yes.

9 MR. GUNTER: I'm sure a lot of us followed the
10 Kobe earthquake as well as the Northfield earthquake.
11 There has been a lot of information with regard to the
12 surprise that those two earthquakes present in terms of
13 producing new data that's contrary to what we thought
14 about a near-field effect of earthquake.

15 So now we're noting that there were effects
16 from the Kobe earthquake, for example, out to 15 miles
17 that were significantly challenging, seismically qualified
18 structures. I think one of them was up to eight on the
19 Richter. It was qualified up quite high.

20 And that as well as similar findings around
21 the Northfield earthquake just bring to mind some
22 questions with regard to why you would -- I read that you
23 are saying that you're not going to do the environmental
24 impact statement because it doesn't impact on
25 construction, but I'm wondering if you could just comment

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1 on how new seismic data might very well affect
2 environmental impact statements for this new design.

3 PANELIST WILSON: The adequacy of the seismic
4 design I don't see as an environmental issue. Rather, it
5 gets into whether or not the plant is safe at a particular
6 site.

7 Let me point out in a design certification
8 rulemaking we're approving the design. And in the process
9 of that, the design is designed to certain sighting
10 criteria; for example, an acceleration due to an
11 earthquake. And in the two designs here, they have
12 assumed certain earthquake acceleration levels in their
13 designs. And we've approved designs to those levels. Let
14 me call them not even parameters.

15 If later a utility came forward and wanted to
16 build the ABWR design, for example, at their site, they
17 would have to demonstrate that the earthquake
18 accelerations that they would experience at that site
19 would be within that bounding level in order for that
20 particular design to be acceptable at that site.

21 So your questions as to the types of
22 accelerations that you would experience at a particular
23 site would be evaluated at that time. And people could
24 challenge those evaluations at that COL application time.

25 Now, as I say, though, I don't see that as an

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1 environmental issue, but I see that as a site safety
2 issue. And it would be evaluated at the combined license
3 stage.

4 MR. GUNTER: So that would be open for
5 question at that time?

6 PANELIST WILSON: Certainly.

7 MR. GUNTER: Okay.

8 PANELIST WILSON: We are not evaluating any
9 sites at this stage. We are evaluating the design for use
10 up to a particular --

11 MR. GUNTER: The bounding level that you're
12 currently using, is that reference to, say, current
13 designs or are these new bounding levels that you're
14 introducing here?

15 PANELIST WILSON: Well, first of all, the
16 applicant for design certification chooses those site
17 parameters. In other words, they could choose an
18 earthquake level that was very high. And, therefore, the
19 design would be acceptable anywhere in the United States,
20 but that makes the design expensive, or they could choose
21 a low seismic level, in which case it wouldn't be suitable
22 at very many sites.

23 So that's a determination made by the
24 applicant. And we at NRC ensure that the design is going
25 to be able to safely function up to those levels.

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1 MR. GUNTER: So that's not in the design
2 certification at present?

3 PANELIST WILSON: What's in the design
4 certification is the bounding level so things like
5 earthquake, tornadoes, all of those site challenges to a
6 design may have made certain assumptions. And we've
7 reviewed the design to those assumed site parameters.

8 MR. GUNTER: Okay. I'm sorry to belabor this.
9 But those assumptions are based out of current data that
10 was used for, say, the current fleet of reactors?

11 PANELIST WILSON: Not really. As I say, they
12 make what's practically speaking an economic decision as
13 to what level they're going to design to.

14 The issue you're getting at is as to the
15 adequacy of predicting what type of earthquake you're
16 going to experience at a site. That's a question that
17 will be assessed at the combined license stage when we
18 have a site to evaluate and then compare it to the design
19 assumptions made for that particular design.

20 MR. GUNTER: Okay. Again, maybe this is not
21 an EIS issue, but I understand that the models themselves
22 are incomplete or not completely considered in terms of
23 such issues as acts of terrorism.

24 I'm wondering. I think that raises a level of
25 concern for us in these destabilizing political times in

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1 terms of: Is that, in fact, an area that should be
2 considered in an environmental impact statement?

3 PANELIST WILSON: We do do reviews with what
4 we refer to as safeguards looking at the ability of the
5 plant to be protected against acts of terrorism. And to a
6 certain extent, some of that information you'll see in the
7 design control documents in back. But, as you might
8 understand, other aspects of that information are not made
9 publicly available. And so we really can't discuss that
10 in any detail.

11 But we do look at acts of terrorism. And the
12 NRC periodically reassesses our criteria in that regard
13 based on what's happening around the world.

14 MR. GUNTER: But, again, that's not going to
15 be -- that wouldn't be part of a consideration for an
16 environmental impact statement?

17 PANELIST WILSON: No. That's part of our
18 safety review acceptability of that plant.

19 PANELIST MALSCH: Let me add something. The
20 theory here behind not issuing an environmental impact
21 statement with the design certification is essentially
22 that the design certification itself, the issuance of the
23 certification, the rulemaking, doesn't itself have an
24 environmental impact. What has an environmental impact
25 would be the construction and operation of the plant which

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1 references it.

2 And so we have understood from the beginning
3 that if one were to reference a certified design, let's
4 say in a combined license application, then it would be a
5 full environmental impact statement written at that time
6 associated with the federal action of issuing the combined
7 license.

8 And so whatever would be the scope of an
9 environmental impact statement for a combined license
10 application would be essentially with one exception
11 unaffected by the issuance of this rule. The exception is
12 issues discussed in the appraisal associated with this
13 rule. And that's a feedback, or feed forward maybe, on
14 accident design mitigational terms.

15 But, by and large, as we see it, the
16 environmental impact statement associated with the
17 combined license issuance would be the kind of thing we
18 have traditionally issued in the past for construction
19 permits and operating license.

20 I think we have in the past in those EIS's
21 included a discussion of severe accident impacts,
22 including at least a qualitative discussion of terrorist
23 attacks. Assuming that would be the policy that the
24 Commission would follow in the future if an application is
25 filed referencing one of these things, I think you'd see

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1 the kind of discussion of terrorism in the EIS that we've
2 traditionally included in the EIS.

3 PANELIST CRUTCHFIELD: To address both your
4 issues, relative to new data that becomes available, what
5 we will do is evaluate that data. We'll see if it's an
6 adequate protection question or whether it's a question of
7 whether they meet the underlying basis for the regulation.

8 And if either of those challenges comes up
9 with a yes answer that it is an adequate protection
10 question, that certainly would be a basis for reopening
11 the rulemaking that will be taking place on both of these
12 designs.

13 But that's a safety question. It's not an
14 environmental question typically.

15 MR. GUNTER: I guess if you could just give me
16 a little bit of clarification on this restricted change
17 process that you're talking about in terms of how that
18 might affect safety or not affect safety or environmental
19 issues?

20 PANELIST WILSON: Well, the change process we
21 have, as I said, resolved a large number of safety issues
22 associated with these designs in this review. And the
23 Commission wanted to preserve those resolutions and
24 achieve benefits of standardization. So what they did is
25 they established higher backfit standards than you would

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1 normally see for plants licensed pursuant to Part 50.

2 And so when I say it's a restrictive change
3 standard, the standard that you have to meet in order to
4 be able to make a change to your design is more difficult.
5 And we're doing that to try to restrict changes.

6 Once we have gone to this effort to approve
7 these designs, someone references them, we want them to
8 complete the design and build the plant in accordance with
9 the resolutions that we have achieved now.

10 MR. GUNTER: Now, would that include also like
11 the 50.59 process once the operation license is granted or
12 --

13 PANELIST WILSON: With regard to that, -- and
14 we were discussing that earlier -- for the portion of the
15 design information that's in the design control document,
16 you wouldn't use the 50.59 process.

17 You would use this process that's in our
18 proposed rule, specifically 8(b)(5). And you'll see it's
19 similar to 50.59 but has different features to it because
20 of the aspects of a 2-tiered design certification rule.

21 MR. GUNTER: Could you give me just a quick
22 rundown on what those differences are, how significant
23 they are?

24 PANELIST WILSON: Well, in an existing 50.59,
25 basically it says you can change information in a safety

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1 analysis report provided it doesn't constitute an
2 unreviewed safety question or change technical
3 specifications. That's sort of a standard. And this one
4 I've outlined here.

5 It says that the Tier 2 information, which is
6 basically equivalent to what you would see in a safety
7 analysis report for an operating plant, although more
8 issues addressed, more detail. It says that you can
9 change that without seeking prior NRC approval provided
10 you don't change the Tier 1 information, which is very
11 high-level information.

12 MR. GUNTER: Which would include reviewed
13 safety issues?

14 PANELIST WILSON: Well, all of the safety
15 issues that are reviewed in the resolution are described
16 in what we call Tier 2, but beyond that we wanted to have
17 a higher level of information that was even more difficult
18 to change, one way of looking at it. And so we have
19 extracted from that safety analysis key design features
20 that we don't want.

21 There's a fundamental basis for the approval
22 of the design, and we don't want those changed. And so
23 they have a higher-level change standard.

24 So what this is basically saying is that if
25 you're changing Tier 2, be sure you're not affecting Tier

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1 1. If you are, you have a different change process you
2 have to come in under.

3 And then tech specs is in there also, as
4 before.

5 MR. GUNTER: So would you characterize that
6 process as more or less restrictive?

7 PANELIST WILSON: I see it as more restrictive
8 in the current 50.59 because there are other checks you
9 have to make. There's less information, I would guess,
10 that can be changed without prior NRC approval under this
11 process than you would see in a 50.59 process.

12 Is that reasonable?

13 PANELIST MALSCH: Well, although I just said
14 that that sort of supposes under the existing 50.59 there
15 were such a thing as Tier 1 one could change without
16 presenting an unreviewed safety question, which is a sort
17 of philosophical question. I'm not sure I know precisely
18 what the answer is.

19 If you had such a thing as a Tier for an
20 existing suite of operating licenses, I would guess that
21 it is likely that many of the changes to that hypothetical
22 Tier 1 would present unreviewed safety questions, in which
23 case the change process for here is more or less
24 equivalent.

25 On its face it appears to be more restrictive.

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1 PANELIST WILSON: Was that helpful?

2 MR. GUNTER: Thanks.

3 PANELIST WILSON: Thank you.

4 Other statements or questions concerning our
5 proposed rules? Last chance.

6 (No response.)

7 PANELIST WILSON: Seeing none, I thank you for
8 coming out, remind you that we have the design control
9 documents in the back. And we have copies of the
10 environmental assessments and our proposed rules in front.
11 You're please welcome to come and look at them or take
12 copies that we have in front.

13 Thank you all for coming. And that is the end
14 of the meeting.

15 (Whereupon, the foregoing matter was concluded
16 at 9:43 a.m.)

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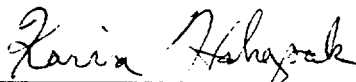
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