

DOCKET NUMBER  
PROPOSED RULEMAKING 50  
(68FR 43673)

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The proposed amendment to Appendix E.IV.B is unnecessary. The Conclusion that "the current regulations are unclear and can be interpreted to require prior NRC approval for all changes to a licensee's EALs" requires a torturous reading of the current language. Read it the way it is written and there is no justification for making the change.

NRC says there is an inconsistency between Section 50.54(q), a sub-part of the section containing conditions of a license, and a provision in Appendix E that is addressed to applicants only. NRC quotes Appendix E, but leaves out the operative word. Appendix E.IV.B says, in part, "These emergency action levels shall be discussed and agreed on by the applicant and State and local governmental authorities and approved by NRC." However, the supplementary information in this rulemaking states only "EAL's shall be \* \* \* approved by NRC." At best the NRC's taking of this text out-of-context is disingenuous -- at worst it is deceitful and self-serving.

Appendix E refers to applicants 10 times -- it refers to licensees 48 times! The last sentence in Appendix E.IV.F.2.h refers to "the applicant or licensee." There are only two sentences in Appendix E.V -- the first refers to applicants and the second refers to licensees. The proposed text changes would add "or licensee" after applicant in Appendix E.IV.B.

Clearly, Appendix E contains requirements for applicants separate from those for licensees. This change does not resolve an inconsistency -- this change imposes a new requirement on licensees. NRC says the proposed rulemaking is not a backfit because it clarifies requirements and represents the current practice of making changes, and because a licensee-initiated change in an EAL constitutes a change in the terms and conditions of its license.

On the contrary, Section 50.54(q) allows licensees, as a condition of their license, to make emergency plan changes without Commission approval so long as the changes do not decrease the effectiveness of the plans and the plans continue to meet the standards of Section 50.47(b) and the requirements of Appendix E. That is, the 48 requirements of Appendix E applicable to licensees, not the 10 applicable to applicants only. Therefore, the backfit analysis needs to be revisited.

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DOCKETED  
USNRC

October 9, 2003 (4:45PM)

OFFICE OF THE SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

Template = SECY-067

SECY-02