

**REQUEST REPLY BY:**3/22/06

COMSECY-06-0016

UNITED STATES

NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

March 6, 2006

MEMORANDUM TO:

Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Jozko
Commissioner Lyons

Approved.

Nils J. Diaz

03/20/06

FROM:

Luis A. Reyes
Executive Director for Operations

SUBJECT:

PROPOSED REVISION OF THE INTERIM ENFORCEMENT
DISCRETION POLICY FOR THE FIRE PROTECTION RULE -
10 CFR 50.48(c) (NFPA 805 RULE)

The purpose of this memorandum is to request Commission approval of staff's plan to publish a *Federal Register* Notice announcing a revision to the Enforcement Policy, to reflect the extension of the enforcement discretion period from two years to three years in the "Interim Enforcement Discretion Policy for the Fire Protection Rule" - 10 CFR 50.48(c).

On June 16, 2004, the U.S. Nuclear Regulatory Commission (NRC) published a final rule in the *Federal Register* amending 10 CFR 50.48, "Fire protection" (69 FR 33536). This rule became effective on July 16, 2004, and allows licensees to adopt 10 CFR 50.48(c), a voluntary risk-informed, performance-based alternative to current fire protection requirements. The NRC concurrently revised its Enforcement Policy (69 FR 33684) to provide interim enforcement discretion during a "transition" period. The interim enforcement discretion policy includes provisions to address: (1) violations identified during the licensee's transition process; and (2) existing identified violations.

In accordance with the current interim Enforcement Policy, for violations identified during the transition to 10 CFR 50.48(c), the enforcement discretion period begins on the receipt of a letter of intent, from the licensee, stating its intention to adopt 10 CFR 50.48(c). This discretion remains in effect for up to two years and is analogous to the discretion afforded licensees conducting self-assessments, as described in section VII.B.3 of the Enforcement Policy. In addition, when the licensee submits a license amendment request to complete the transition to 10 CFR 50.48(c), the enforcement discretion will continue in effect until the NRC completes its review of the license amendment request.

The second element of the interim policy provides enforcement discretion for licensees that wish to take advantage of the rule to resolve existing violations. The original rule required licensees wishing to take advantage of this interim policy to submit letters of intent to adopt 10 CFR 50.48(c), within 6 months of the effective date of the final rule. However, the Nuclear

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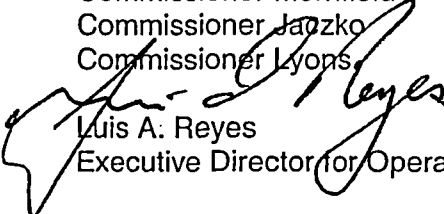
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E. J. Jaffee for
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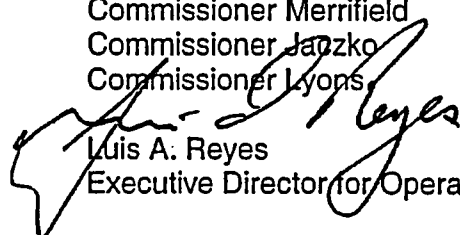
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Jeffrey S. Merrifield 3/22/06
Date

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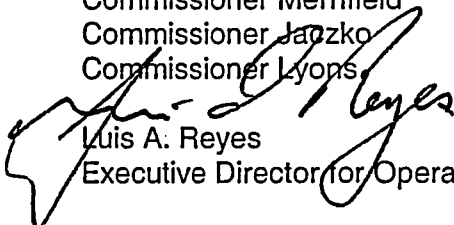
Approved.

Gregory B. Jaczko

3/13/06

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Peter B. Lyons 3/21/06
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