

August 30, 2011

MEMORANDUM FOR: R. W. Borchardt
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary **/RA/**

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 8:55 A.M.,
TUESDAY, AUGUST 30, 2011, COMMISSIONERS'
CONFERENCE ROOM, ONE WHITE FLINT NORTH,
ROCKVILLE, MARYLAND (OPEN TO PUBLIC ATTENDANCE)

I. SECY-11-0053 – Final Rule: Enhancements to Emergency Preparedness Regulations
(10 CFR Part 50 and 10 CFR Part 52) (RIN-3150-AI10)

The Commission approved a final rule, subject to the comments noted below and the attached changes, amending certain emergency preparedness (EP) requirements in the regulations that govern the domestic licensing of production and utilization facilities. Among other things, the final rule adds a conforming provision that governs licenses, certifications, and approvals for new nuclear power plants; codifies certain voluntary protective measures and generically applicable requirements similar to those previously imposed by Commission orders; enhances the ability of licensees to implement certain EP and protective measures in the event of a radiological emergency; and addresses security issues identified after the terrorist events of September 11, 2001.

Following incorporation of the attached changes, the Federal Register notice should be reviewed by the Rulemaking, Directives, and Editing Branch in the Office of Administration and forwarded to the Office of the Secretary for signature and publication.

It was very beneficial for all stakeholders to have the opportunity to review draft guidance along with the proposed rule language. This is a good practice that, whenever possible, should be utilized as part of our rulemaking process.

Any future EP rulemaking should include stronger technical bases for areas such as backup alert and notification system (ANS) and evacuation timing.

The staff should re-evaluate the guidance that provides a methodology for evaluating changes to the evacuation time estimates (ETEs) as experience is developed in use of this method.

Whenever possible, licensees should be encouraged to establish their Emergency Operating Facilities (EOFs) as close to sites as practical.

The Commission looks forward to ultimately receiving the staff's analysis of how we can develop a more performance-based approach to EP.

The staff should continue its stakeholder engagement throughout the implementation period for this rule. On the basis of this engagement, necessary adjustments to the rule and associated guidance may be identified. The staff should strive to finalize the NRC guidance in a timely manner in order to support orderly implementation by licensees and coordination with other affected entities.

The staff should report back to the Commission in an information paper upon the completion of the final FEMA REP Manual with an analysis of the impacts the FEMA REP Manual, in its final form, poses for the implementation of the final rule by NRC's licensees.

The Commission supports the staff's research in several areas to determine the feasibility of risk-informing EP as noted in SECY 11-0053, and expects that the state-of-the art reactor consequence analysis (SOARCA) project and forthcoming probabilistic risk assessment (PRA) level III initiative in the NRC's Office of Nuclear Regulatory Research should serve to provide the risk-informed technical rationale to support further enhancements of EP requirements and guidance.

The staff should document the language from the Statements of Consideration cited in the ACRS's May 18, 2011, letter in an appropriate guidance document before publishing the final rule.

The staff should carefully monitor how inspection results from hostile action-based (HAB) exercises impact radiological emergency preparedness (REP) programs.

With respect to alert and notification system (ANS) for residents in surrounding communities near nuclear power plants, technology advancements, consideration of backup power systems and lessons learned from natural disasters should continue to be leveraged to ensure all segments of the population are effectively informed in a radiological emergency especially in the instance of widespread power losses.

Emergency officials should be encouraged to seek public insights as they plan and resource their REP efforts.

After issuance of FEMA guidance the staff should assess stakeholder feedback and inform the Commission if the FEMA guidance adversely affects the timelines for rule implementation schedules outlined in SECY-11-0053. However, the issuance of NRC's final rule should not be delayed as adjustments to implementation schedules have been made in anticipation of these pending changes.

Attachment: Changes to the Final Rule in SECY-11-0053

cc: Chairman Jaczko
Commissioner Svinicki
Commissioner Apostolakis
Commissioner Magwood
Commissioner Ostendorff
OGC
CFO
OCAA
OCA
OIG
OPA
Office Directors, Regions, ACRS, ASLBP (via E-Mail)
PDR

Comments and Changes to be Incorporated in the Final Rule Prior to Publication

1. The implementation period for the amended emergency plan change process in the final rule should be 90 days after the final rule's publication in the *Federal Register*, which would provide time to institute any necessary changes to plant procedures.
2. The current requirement for licensees to obtain NRC approval to locate their EOFs beyond 25 miles should be maintained.
3. The following editorial/typographical edits should be made to the Federal Register Notice.
 - a. Page 7, line 22, revise to read: "...exercises ~~were~~ **will be** challenging and ~~did~~ **will** not..."
 - b. Page 21, line 9, revise to read: "...considers it prudent, **for hostile action events outside of normal working hours,** to fully activate ERO members ~~for off-normal working hour hostile action~~ to..."
 - c. Page 21, line 24, revise to read: "...RIS 2006-12, ~~do~~ **would** not provide..."
 - d. Page 26, last line, revise to read: "Rescue of, and medical attention to, significant..."
 - e. Page 45, first full paragraph should not be in boldface type.
 - f. Page 56, last sentence (continuing on page 57) should not be in boldface type.
 - g. Page 59, line 10, change "license" to "licensee"
 - h. Page 60, line 16, revise to read: "...based and, as such, compliance..."
 - i. Page 61, lines 24-25, revise to read: "...emergency plan, **as modified,** can continue to be effective, ~~as modified.~~"
 - j. Page 62, line 2, revise to read: "...maintains the **plan's** effectiveness."
 - k. Page 62, line 5, revise to read: "...standards of § 50.47(b), alone..."
 - l. Page 62, line 15, delete the comma after "effectiveness"
 - m. Page 76, line 3, revise to read: "...document and, therefore, would..."
 - n. Page 76, lines 18-19, revise to read: "...If **this threshold is reached** during the decennial period between censuses ~~this threshold is reached,~~ the licensee..."
 - o. Page 82, lines 1-2, remove underline
 - p. Page 82, line 23, remove the comma after "implementation"
 - q. Page 89, line 12, remove the comma after "actions" and remove the parenthesis before "Although"

- r. Page 94, line 9, remove the comma after “radiological”
- s. Page 99, lines 8-12, revise to read: “However, the NRC has determined that, since the alternative facility (or facilities) must have the capability for communication to communicate with the EOF, control room, and site security; to perform offsite notifications; and for to conduct engineering assessment activities, including damage control team planning and preparation, then licensees should have flexibility in meeting these requirements based on site-specific characteristics.”
- t. Page 99, line 20, remove the comma after “licensee”
- u. Page 106, line 22, remove the extra period after “exercise”
- v. Page 107, line 8, add space after “among”
- w. Page 107, line 10, revise to read: “The NRC believes that, in the current threat environment, nuclear power...”
- x. Page 128, paragraph (gg)(1), first line, add a comma after “if”
- y. Page 132, heading “II. The Preliminary Safety Analysis Report” should be in boldface type.