RULEMAKING ISSUE
NOTATION VOTE

July 17, 2001 SECY-01-0131

FOR: The Commissioners

FROM: William D. Travers
Executive Director for Operations

SUBJECT: RULEMAKING PLAN: REVISION OF APPENDIX E, SECTION IV.F.2, TO 10 CFR PART 50, CONCERNING CLARIFICATION OF EMERGENCY PREPAREDNESS EXERCISE PARTICIPATION REQUIREMENTS FOR CO-LOCATED LICENSEES

PURPOSE:

As discussed in SECY-00-0238, "Emergency Planning for Indian Point 2 and other Co-Located Licensees," this paper is to obtain the Commission's approval of the attached rulemaking plan to revise Appendix E, Section IV.F.2, to 10 CFR Part 50, "Emergency Planning and Preparedness for Production and Utilization Facilities," to resolve an ambiguity in the emergency planning (EP) regulations with regard to the level and frequency of exercise participation between co-located licensees (i.e., when two or more licensees are located on the same site) and offsite authorities. Currently, only two sites have co-located licensees, the Indian Point (IP2/IP3) site and the Nine Mile Point/James A. FitzPatrick site.

BACKGROUND:

Indian Point Unit 2 (IP2) was shut down following the steam generator tube failure event that occurred on February 15, 2000. In a letter dated June 29, 2000, from the Union of Concerned Scientists and others supplementing a petition that had been submitted earlier under 10 CFR 2.206, the petitioners stated that 10 CFR 50, Appendix E, requires each licensee at each site to conduct a full participation exercise of its emergency plan every two years, and requested that the NRC not permit the restart of IP2 until the completion of such an exercise.

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A 2.206 Director's Decision issued on October 6, 2000, denied the petition, but noted that the petitioners did point out an ambiguity in the emergency preparedness regulations and their application regarding co-located licensees on a site, and that the staff would evaluate whether a clarification to the regulations is warranted.

DISCUSSION:

The emergency planning regulations were significantly upgraded in 1980 after the accident at Three Mile Island (45 FR 55402; August 19, 1980). The 1980 regulations required an annual exercise of the onsite and offsite emergency plans. In 1984, the regulations were amended to change the frequency of participation of State and local governmental authorities in nuclear power plant offsite exercises from annual to biennial (49 FR 27733; July 6, 1984). In 1996, the regulations were amended to change the frequency of exercising the licensee's onsite emergency plan from annual to biennial (61 FR 30129; June 14, 1996). The current regulations state that the offsite emergency plans for each *site* shall be exercised biennially with the full (or partial) participation of each offsite authority having a role under the plans, and that *each licensee at each site* shall conduct an exercise of its onsite emergency plan every 2 years, an exercise that may be included in the full participation biennial exercise (emphasis added).

The staff believes that the unique considerations raised by co-located licensees most likely were not considered when emergency planning requirements were codified.

In SECY-00-0238, the staff concluded that the current practice of co-located licensees alternating participation in the biennial exercises of the offsite plans, with the current level of other interactions between the licensees and offsite authorities at the affected sites is acceptable. However, the staff concluded that a clarification of the regulations was warranted. In addition, the staff identified a need for guidance on what constitutes a partial participation exercise in general, and guidance specifically for co-located licensees on the types of emergency preparedness activities and interactions with offsite authorities to be conducted in the period between exercises. Additional details on this issue are documented in SECY-00-0238.

RESOURCES

Resources to conduct the rulemaking and guidance development (approximately 2.0 FTE over the period FY2001-2004) are not currently budgeted. The planning, budgeting, and performance management process will be used to reallocate resources or eliminate or defer lower priority work.

COORDINATION:

The Office of the General Counsel has no legal objection. The Office of the Chief Financial Officer has reviewed this Commission paper for resource implications and has no objections. The staff has previously coordinated the approach presented in this paper with FEMA and the State of New York Emergency Management Office. Both of these organizations expressed support for the staff's recommended approach.

RECOMMENDATION:

The staff recommends that the Commission approve the rulemaking plan to proceed with the Part 50, Appendix E, rulemaking using Option 2 in the attached rulemaking plan.

For the Commission's information, the staff is also working on a separate rulemaking plan to revise Part 50, Appendix E, to allow offsite authorities the option of foregoing one biennial exercise within a six-year period and fulfill the requirement by alternate means. This rulemaking is necessary to support one of the initiatives that resulted from FEMA's Strategic Review Steering Committee recommendations. These recommendations were previously provided to the Commission by memorandum dated March 1, 1999. The content and timing of the rulemaking activities for this initiative will be coordinated with FEMA's companion efforts on rulemaking. If the timing allows, the staff may combine these two Part 50, Appendix E rulemakings to achieve some efficiencies.

/RA/

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Attachment: Rulemaking Plan

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/RA/

William D. Travers
Executive Director
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Attachment: Rulemaking Plan

TEMPLATE: SECY-O12 ***See previous concurrence **concurrence by e-mail ***concurrence by memo**
ADAMS ACCESSION NUMBER ML011520066
DOCUMENT NAME:C:\Program Files\Adobe\Acrobat 4.0\PDF Output\SP01-0131.wpd

OFFICE	**NRR/IOLB***	**NRR/IOLB***	**NRR/IOLB***	**D/DIPM***	
NAME	**DBARSS**	**KGIBSON**	**GTRACY**	**BBOGER**	
DATE	**6/01/2001**	**6/01/2001**	**6/06/2001**	**6/ 07 /2001**	
OFFICE	**ADM**	**OGC***	**NRR/PMAS***	**OE**	**CIO**
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DATE	**6/13/2001**	**6/18 /2001**	**6/18/2001**	**6/12 /2001**	**6/15 /2001**
OFFICE	**CFO**	**NRR/RGEB****	**NRR/ADIP**	**D/NRR**	**EDO**
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DATE	**6/15 /2001**	**6/18 /2001**	**6/ 20 /2001**	**6/ 21 /2001**	**7/17 /2001**

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RULEMAKING PLAN

CLARIFICATION OF EMERGENCY PREPAREDNESS EXERCISE PARTICIPATION REQUIREMENTS FOR CO-LOCATED LICENSEES

Proposed Revision of Appendix E, Section IV.F.2, to 10 CFR Part 50

Regulatory Issue

The way the terms “site” and “licensee” are used in the current regulations results in an ambiguity about actual emergency preparedness exercise requirements when multiple licensees are co-located at the same site (i.e., two licensees located at the same site). Due to the ambiguities in the regulations, different conclusions can be reached regarding whether the co-located licensees are in compliance with the emergency planning regulations.

Existing Regulatory Framework

10 CFR 50, Appendix E, IV.F.2, states the following:

> 2. The plan shall describe provisions for the conduct of emergency preparedness exercises as follows: Exercises shall test the adequacy of timing and content of implementing procedures and methods, test emergency equipment and communications networks, test the public notification system, and ensure that emergency organization personnel are familiar with their duties.
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> b. Each licensee at each site shall conduct an exercise of its onsite emergency plan every 2 years. The exercise may be included in the full participation biennial exercise required by paragraph 2.c. of this section. In addition, the licensee shall take actions necessary to ensure that adequate emergency response capabilities are maintained during the interval between biennial exercises by conducting drills, including at least one drill involving a combination of some of the principal functional areas of the licensee's onsite emergency response capabilities. The principal functional areas of emergency response include activities such as management and coordination of emergency response, accident assessment, protective action decision-making, and plant system repair and corrective actions. During these drills, activation of all of the licensee's emergency response facilities (Technical Support Center (TSC), Operations Support Center (OSC), and the Emergency Operations Facility (EOF)) would not be necessary, licensees would have the opportunity to consider accident management strategies, supervised instruction would be permitted, operating staff would have the opportunity to resolve problems (success paths) rather than have controllers intervene, and the drills could focus on onsite training objectives.

c. Offsite plans for each site shall be exercised biennially with full participation by each offsite authority having a role under the plan. Where the offsite authority has a role under a radiological response plan for more than one site, it shall fully participate in one exercise every two years and shall, at least, partially participate in other offsite plan exercises in this period.

"Full participation" when used in conjunction with emergency preparedness exercises for a particular site means appropriate offsite local and State authorities and licensee personnel physically and actively take part in testing their integrated capability to adequately assess and respond to an accident at a commercial nuclear power plant. "Full participation" includes testing major observable portions of the onsite and offsite emergency plans and mobilization of state, local and licensee personnel and other resources in sufficient numbers to verify the capability to respond to the accident scenario.

"Partial participation" when used in conjunction with emergency preparedness exercises for a particular site means appropriate offsite authorities shall actively take part in the exercise sufficient to test direction and control functions; i.e., (a) protective action decision making related to emergency action levels, and (b) communication capabilities among affected State and local authorities and the licensee.

The emergency planning regulations were significantly upgraded in 1980 after the accident at Three Mile Island (45 FR 55402; August 19, 1980). The 1980 regulations required an annual exercise of the onsite and offsite emergency plans. In 1984, the regulations were amended to change the frequency of participation of State and local governmental authorities in nuclear power plant offsite exercises from annual to biennial (49 FR 27733; July 6, 1984). In 1996, the regulations were amended to change the frequency of exercising the licensee's onsite emergency plan from annual to biennial (61 FR 30129; June 14, 1996). The current regulations state that the offsite emergency plans for each *site* shall be exercised biennially with the full (or partial) participation of each offsite authority having a role under the plans, and that *each licensee at each site* shall conduct an exercise of its onsite emergency plan every 2 years, an exercise that may be included in the full participation biennial exercise (emphasis added). The staff believes that the unique considerations raised by co-located licensees were not considered when emergency planning requirements were codified.

There are two licensees at the Indian Point (IP2/IP3) site, Consolidated Edison Company of New York, Inc. (Con Ed) (Unit 2) and Entergy Nuclear Operations, Inc. (Entergy) (Unit 3). At this site the practice has been to alternate the onsite participation in the exercises of the offsite emergency plans between the two licensees. The IP2 and IP3 licensees have alternated participation in the exercises of the offsite emergency plans since some point in time after the emergency planning regulations were amended in 1984. Each licensee has participated once every 4 years in the biennial full participation exercises of the offsite plans. In the interval between full participation exercises of the offsite plans, the IP2 and IP3 licensees conduct annual exercises of the onsite emergency plans and engage in various emergency planning training and coordination activities with the State of New York and the local counties. NRC, FEMA, and the State of New York have been aware of the current practice, but no evidence has been found of explicit NRC approval of the alternating participation practice for the Indian Point licensees.

The same practice also occurs at the Nine Mile Point (NMP) and FitzPatrick (JAF) nuclear power plants in upstate New York because the two licensees are located on what is essentially the same site and share a common emergency planning zone. Here, the licensees' commitments to exercise the onsite and offsite emergency plans, and the staff's expectations, are reflected in an exchange of correspondence between the licensees and the NRC. In a letter dated September 18, 1984, the licensees stated that full participation exercises with Oswego County will be biennially alternated between NMP and JAF, so that each licensee will hold a full participation emergency preparedness exercise with Oswego County once every 4 years. In addition, the licensees stated that the licensee that does not conduct the full participation exercise with Oswego County will conduct a partial participation exercise with the county and other offsite agencies. In separate letters to the licensees on February 14, 1985, the NRC stated that the licensees' stated actions are in accordance with Section IV, Paragraphs F.3 and F.3(d), of Appendix E to 10 CFR Part 50 (the applicable emergency plan exercise requirements at the time) and are, therefore, acceptable.

In SECY-00-0238, the staff concluded that the licensees' practice of alternating participation in the biennial full participation exercises, with the current level of interactions between the licensees and offsite authorities at Indian Point and Nine Mile Point/FitzPatrick, is acceptable. Each licensee has documented and committed to continue the current level of interaction with offsite authorities in letters to NRC. However, in its deliberations on this issue, the staff concluded that a clarification of the regulations was warranted. In addition, the staff identified a need for guidance on what constitutes a partial participation exercise in general, and guidance specifically for co-located licensees on the types of emergency preparedness activities and interactions that would test and maintain interface functions in the period between required exercises.

How the Regulatory Issue will be Addressed by Rulemaking

The staff proposes to develop a rule that would modify the language of Appendix E, Section IV.F.2, to 10 CFR Part 50, to resolve the ambiguity caused by the current rule language and clarify the exercise requirements for licensees that are co-located on a site. The regulatory position that each onsite and offsite emergency plan is to be exercised every two years will be preserved, while taking into consideration the burden placed on offsite organizations having a role under a radiological response plan for more than one site or licensee.

With the modified requirements, co-located licensees would have to exercise their onsite plans biennially. The offsite authorities would have to exercise their plans biennially. The interface between offsite and each of the onsite plans would be practiced biennially, in either a biennial exercise on a rotating basis between each licensee, or through other means (i.e., program to implement interface activities) in the period between the exercises. This will essentially codify the current practice which has been found to be acceptable (i.e., maintains reasonable assurance), by the NRC, FEMA, and the State of New York. As has been demonstrated by past experience, the staff believes that co-located licensees and offsite authorities can maintain, and demonstrate, the continuation of reasonable assurance that their emergency plans can be implemented in an integrated manner through means other than an exercise in the period between required exercises.

The staff proposes to develop guidance for the industry and offsite authorities, with stakeholder input, on the types of emergency preparedness activities and interactions that would test and maintain interface functions for co-located licensees and offsite authorities in the period between full participation exercises. The staff recognizes that there are a number of ways these activities could be conducted.

Rulemaking Options

The staff considered two rulemaking options.

Option 1 would clarify the regulation so that each licensee co-located on a site shall participate in an exercise with offsite authorities (either full or partial) every 2 years.

Option 2 would clarify the regulation by adding a sentence to Appendix E similar to "... When a site has more than one licensee, each licensee shall rotate participation in the biennial offsite plan exercises and institute a program of emergency preparedness activities and interactions that would test and maintain interface functions in the period between exercises..." This option would include developing guidance to establish and document a common understanding among stakeholders about the types of emergency preparedness activities and interactions that would test and maintain interface functions for co-located licensees and offsite authorities in the period between exercises.

Alternatives

An alternative would be to take no rulemaking action and leave existing rule language unchanged. The practice of alternating licensee participation in biennial exercises by co-located licensees is unique to the Indian Point and Nine Mile Point/FitzPatrick sites. If a proposed transfer of the IP2 license to Entergy is approved and completed, the issue will become moot for the IP2/IP3 site. The current trend in the nuclear industry is to consolidate licenses. If the no rulemaking action were pursued, the regulation would remain ambagious although, as described above, the number of licensees currently effected by the ambiguities is minimal. If this alternative were to be pursued, the staff would recommend the development of guidance as described in Option 2.

Impact(s)

Option 1

Option 1 would maintain safety because EP exercises would continue to be required, but at a higher frequency for offsite authorities having a role under a radiological response plan for a site with co-located licensees. The impact of Option 1 on licensees resources would be minimal, because they are currently required to conduct an exercise of onsite emergency plans every 2 years. The impact of Option 1 on the resources of offsite authorities would be significant in that it would require participation in additional exercises. For example, this could result in offsite authorities needing to exercise every year, or twice every other year, for a two-unit site where each unit is licensed to a different entity. This increase in exercise requirements for offsite authorities having a role under a radiological response plan for a site with co-located licensees would effectively constitute a reversal of the relaxation of the requirement for annual

exercises of offsite plans previously granted in the 1984 rulemaking. This option would require NRC resources to process and implement the rulemaking.

Option 2

Option 2 would maintain safety because EP exercises would continue to be required at the frequency which has historically been shown to be adequate to provide reasonable assurance that plans can be implemented. The impact of Option 2 on the resources of licensees and offsite authorities would be minimal. Option 2 is basically what co-located licensees are currently doing and, therefore, there would not be a change in existing acceptable practices. Clarification of the regulatory requirements would modify wording that has resulted in ambiguous understanding of requirements. This option would require NRC resources to process and implement the rulemaking. The development of guidance on the types of emergency preparedness activities and interactions that would test and maintain interface functions for co-located licensees and offsite authorities in the period between exercises would provide a consistent expectation and basis for such activities. The level of activities and interactions adequate to maintain an appropriate level of preparedness would be ensured.

Alternative

The no rulemaking alternative would maintain safety because the staff reviews proposed emergency plans for initial licenses and emergency plan changes resulting from license transfers. The impact of the no rulemaking alternative on the resources of licensees and offsite authorities would be minimal. However, without clarification of the regulatory requirements, there would be the continued ambiguity in the exercise requirements for future co-located licensee situations. The impact of these continued ambiguities is that potential confusion over exercise requirements would have to be resolved on a case-by-case basis by the staff. This option would not require NRC resources for processing and implementing a rulemaking. The issuance of guidance on the types of emergency preparedness activities and interactions that would test and maintain interface functions for co-located licensees and offsite authorities in the period between exercises discussed in Option 2 would still be beneficial to provide a consistent expectation and basis for such activities.

Benefits

Option 1

There would be minimal safety benefit to Option 1 because the historical record has shown that biennial exercises are adequate to provide reasonable assurance that plans can be implemented. Additionally, the staff believes that required increased exercise participation would place an unnecessary regulatory burden on offsite authorities.

Option 2

There would be minimal safety benefit to Option 2 because as stated in Option 1, the historical record has shown that biennial exercises are adequate to provide reasonable assurance that plans can be implemented. With Option 2, the ambiguity of the current requirements over the level and frequency of participation in exercises for co-located licensees would be clarified and

the practice would be subject to public scrutiny through the rulemaking process. The exercise requirements for any future situations where there is a multiple unit site with multiple licensees would be clearly stated. FEMA supports the approach taken by Option 2.

Alternative

There would be minimal safety benefit to the no-rulemaking alternative because it would maintain existing requirements and practices. The benefit of the no-rulemaking alternative would be that the NRC would avoid the costs of changing the rule and of implementing the revision. The staff proposes to develop guidance for the industry and offsite authorities on the types of emergency preparedness activities and interactions that are needed to test and maintain interface functions for co-located licensees and offsite authorities in the period between exercises even if there were no changes to the regulations. This guidance would provide a consistent standard of expectations and basis for such activities.

Preferred Option:

Option 2 is preferred by the staff because it would clarify the regulations, it codifies current practice which has shown by experience to maintain reasonable assurance that onsite and offsite emergency plans can be implemented, and its implementation would not impose unnecessary regulatory burden on licensees or offsite authorities. FEMA supports the approach taken by Option 2.

Enforcement Considerations

In SECY-00-0238, the staff concluded that the licensees' practice of alternating participation every 4 years in the biennial full participation exercises, with the current level of interactions between the licensees and offsite authorities at Indian Point and Nine Mile Point/FitzPatrick, is acceptable. Each licensee has documented and committed to continue the current level of interaction with offsite authorities in letters to NRC. Therefore, the staff believes that there are no enforcement issues to address.

Office of General Counsel (OGC) Legal Analysis

10 CFR Part 50, Appendix E, Paragraph IV.F.2.c. currently states: "Offsite plans *for each site* shall be exercised biennially with full participation by each offsite authority having a role under the plan." (Emphasis added). By contrast, Paragraph IV.F.2.b. provides that "*[e]ach licensee at each site* shall conduct an exercise of its onsite emergency plan every 2 years." (Emphasis added). Because of the difference in language between Paragraph IV.F.2.c. and Paragraph IV.F.2.b., there is some ambiguity whether co-located licensees - two licensees whose facilities are located at the same site - must each participate in an offsite exercise every two years, or whether the co-located licensees may alternate or otherwise vary their participation in the offsite exercise such that each co-located licensee does not have to participate in an offsite exercise every two years.

In SECY-00-0238, "Emergency Planning for Indian Point 2 and Other Co-Located Licensees" (December 26, 2000), the staff committed to providing the Commission with a proposed amendment to 10 CFR Part 50, Appendix E, Paragraphs IV.F.2.b. and c. that would "clarify the

use of the terms, 'licensee' and 'site' in the emergency planning regulations." *Id*. at p.6. In addition, the staff stated that the proposed rulemaking will also include development of NRC guidance on "the types of EP activities and interactions that would test direction and control functions for co-located licensees and offsite authorities between full participation exercises." *Id*.

The overall purpose of this rulemaking is to revise Paragraph IV.F.2 by adding a provision that specifically addresses the regulatory obligations for co-located licensees and the participation of offsite authorities in offsite exercises at such sites. The staff's proposal would be to require the co-located licensees to rotate[1] their participation in a full or partial participation offsite plan exercise that is conducted at the site every two years. During the period between required exercises, co-located licensees would be required to "institute a program of emergency preparedness activities and interactions that would test and maintain interface functions in the period between exercises." After reviewing the Atomic Energy Act of 1954, as amended (AEA), OGC concludes that Sections 103, 104, 161, and 182 of the AEA provide the Commission with sufficient authority to promulgate the proposed rule.

OGC notes that the staff's proposed language to be added to Paragraph IV.F.2.c. will require further refinement, inasmuch as the staff's proposed language addresses the co-located licensees' regulatory requirement, but does not address the expectations of the NRC with respect to the offsite authorities. Furthermore, the staff's new concept of "interface functions," and how this concept differs from the "direction and control functions" in 10 CFR Part 50, Appendix E, footnote 5, needs to be explained (if not in the rule, then in associated guidance). The proposed language is also ambiguous in that it does not identify the entities whose interface must be tested and maintained, nor does it set forth the schedule for testing or otherwise demonstrating the adequacy of the interface. Finally, the prospective nature of the proposed requirement is not reflected in the staff's proposed language. Refinements to the regulatory language can be addressed in the drafting of the proposed rule and do not appear to present any insurmountable obstacle to the drafting of the proposed rule.

The proposed rule will require preparation of an environmental assessment, as it appears that there are no categorical exclusions in 10 CFR 50.51(c) that would apply to the proposed rule.

The staff asserts, in the Backfit Analysis section, that the proposed rule would apply prospectively to future co-located licensees and therefore does not constitute a backfit as defined in 10 CFR 50.109(a)(1). OCG agrees that a requirement that applies prospectively to future co-located licensees would not constitute a backfit (although the staff's proposed language does not explicitly address this matter).

The rulemaking plan reflects the staff's position that the proposed rule would not constitute a "major rule" under the Small Business Regulatory Enforcement Fairness Act. Accordingly, the rule can be made effective without a 60-day period for Congressional review.

The proposed rule may entail new record keeping requirements, inasmuch as the licensees will likely be required by the proposed rule to maintain a description of the program for testing

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[1]The term, "rotate" is used to accommodate the possibility that there may be more than two co-located licensees at a site.

direction and control functions, as well as maintaining records on licensees' compliance with the new rule. Accordingly, OGC agrees with the staff's decision to prepare an Office of Management and Budget (OMB) clearance package under the Paperwork Reduction Act. The staff states that the proposed rule may require a revision of Regulatory Guide 1.101, "Emergency Planning and Preparedness for Nuclear Power Plants." A clearance package may have to be prepared for either a revision to Regulatory Guide 1.101 or a new regulatory guide which addresses the requirements of this proposed rule.

The conduct and scheduling of emergency preparedness exercises are not matters which are appropriate for addressing in industry consensus standards, and have not been the subject of such standards. Accordingly, this proposed rulemaking does not appear to be within the purview of the National Technology Transfer and Advancement Act of 1995, P.L. 104-113.

In conclusion, OGC has determined that there are no known bases for legal objection to any of the options or alternatives for the proposed rulemaking.

Agreement State Implementation Issues

Under the "Policy Statement of Adequacy and Compatibility of Agreement State Programs" approved by the Commission on June 30, 1997, and published in the *Federal Register* on September 3, 1997 (62 FR 46517), Part 50 is classified as compatibility category "NRC." The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act or provisions of Title 10 of the Code of Federal Regulations, therefore, there are no Agreement State implementation issues to address.

Category of Rule

The category of this rule is conflict resolution of regulations.

On the basis of the preliminary economic impact assessment conducted for this rulemaking plan, this rule does not appear be a major rule as defined in the Small Business Regulatory Enforcement Fairness Act because its economic impact is likely to be less that $100 million. As discussed in the Benefits section of this rulemaking plan, there is no economic cost or benefit to the industry. A final determination as to whether this is a major rule will be made when a detailed regulatory analysis has been performed.

Backfit Analysis

The proposed rulemaking addresses the regulatory ambiguity regarding exercise participation requirements for co-located licensees. The proposed rulemaking would clarify the regulation by adding a sentence to Appendix E similar to "... When a site has more than one licensee, each licensee shall rotate participation in the biennial offsite plan exercises and institute a program to test and maintain interface functions for co-located licensees and offsite authorities in the period between exercises..." .

The proposed change applies prospectively to future co-located licensees. The Commission has indicated in various rulemakings that the Backfit Rule does not protect the prospects of a potential applicant. The staff has concluded that the existing practices for current co-located

licensees are acceptable. The rulemaking would codify these existing practices. For these reasons, the Backfit Rule would not apply to this proposed rulemaking.

Supporting Documents

The proposed rule will require preparation of a regulatory analysis, as well as an environmental assessment, as it appears that no categorical exclusions in 10 CFR 51.22(c) which would apply to this rulemaking.

The proposed rule may impact information collections for which a clearance package must be submitted to OMB no later than the date the proposed rule is submitted to the Office of the Federal Register for publication. Therefore an OMB clearance package will be prepared for this rulemaking.

The proposed rulemaking clarifies the regulation such that each licensee co-located on a site shall rotate participation in exercises with offsite authorities and institute a program to test and maintain interface functions for co-located licensees and offsite authorities in the period between exercises. This matter is not within the purview of the National Technology Transfer and Advancement Act of 1995.

The proposed rule should not require revising other regulations. The proposed rule may necessitate a revision to Regulatory Guide 1.101, "Emergency Planning and Preparedness for Nuclear Power Plants," or development of a new regulatory guide which addresses the requirements of the proposed rule.

Interoffice Management Steering Group

A steering group is not required for this rulemaking.

Public Participation

The staff will seek public comment by publishing the proposed rule in the Federal Register for a 75-day public comment period. The staff will inform the Federal Emergency Management Agency and State, Tribal Nation, and local government organizations within the plume exposure emergency planning zone when the proposed rule is issued for comment.

EDO or Commission Issuance

The staff recommends that this proposed rule be issued by the Commission.

Resources

Resources to conduct the rulemaking and guidance development (approximately 2.0 FTE over the period FY2001-2004) are not currently budgeted. The planning, budgeting, and performance management process will be used to reallocate resources or eliminate or defer lower priority work.

Staffing

NRR Staff Lead..... Daniel M. Barss
Division of Inspection Program Management

NRR Supporting Division Staff..... Michael T. Jamgochian
Division of Regulatory Improvement Programs

OGC Contact..... Geary Mizuno

Regional Contacts..... Richard Conte, Region I
Michael Ernstes, Region II
Wayne Slawinski, Region III
Gail Good, Region IV

Contractual Assistance..... None anticipated

Schedule

Proposed rule to the Commission.....9 months after the rulemaking plan is approved by the Commission

Public comment period on the proposed rule .....75 days

Final rule to the Commission.....9 months following the close of the public comment period