

April 27, 2007

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

FROM: Charles L. Miller, Director **/RA GPangburn for/**
Office of Federal and State Materials
and Environmental Management Programs

SUBJECT: DIRECT FINAL RULE TO AMEND 10 CFR PART 1.46, OFFICE
OF NUCLEAR SECURITY AND INCIDENT RESPONSE

Enclosed for your signature is a direct final rule with the companion proposed rule (Enclosures 1 and 2) amending U.S. Nuclear Regulatory Commission (NRC) regulations to 10 CFR Part 1.46, "Office of Nuclear Security and Incident Response" (NSIR). This amendment clarifies NSIR emergency preparedness program responsibilities by replacing the current reference to "nuclear reactors" with the phrase "nuclear facilities." We are using a direct final rule approach because this section in the regulations governs functions of NRC offices and does not constitute a significant question of policy.

The direct final rule will contribute to NRC performance goal number four to ensure that NRC actions are effective, efficient, realistic, and timely. The emergency preparedness programs for nuclear facilities other than nuclear reactors, including fuel cycle, spent fuel storage, transportation, waste, and various non-fuel cycle materials facilities have been the responsibility of the Office of Nuclear Material Safety and Safeguards (NMSS). The transfer of certain emergency preparedness program responsibilities from NMSS to NSIR is being undertaken consistent with those Offices' management commitments. This direct final rule clarifies that NSIR has the programmatic responsibility for emergency preparedness policies, regulations, programs, and guidelines for all of the nuclear facilities that are under NRC jurisdiction.

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Notices: Enclosure 3 (EDO Daily Note) documents that the Executive Director for Operations (EDO) intends to sign the *Federal Register* Notice. Enclosure 4 ("Notice of Final Rule Signed by the EDO") and Attachment 5 ("Weekly Report to the Commission") each document that the EDO has signed the two *Federal Register* Notices. Enclosure 6 contains the Approved for Publication. The appropriate Congressional committees will be notified.

Resources: The only resources needed to implement this direct final rule are 0.06 FTE in FY 2007. These resources are included in the NMSS FY 2007 current estimate budget.

Coordination: The Offices of Administration, Enforcement, Nuclear Security and Incident Response, and Nuclear Material Safety and Safeguards concur with these amendments. The Office of the General Counsel has no legal objection. The Office of the Chief Financial Officer has reviewed the proposed rule for resource implications and has no objection.

Enclosures:

1. *Federal Register* Notice of Direct Final Rule
2. *Federal Register* Notice of Proposed Rule
3. EDO Daily Note
4. Notice of Final Rule Signed by EDO
5. Weekly Report to the Commission
6. Approved for Publication
7. CRA Forms

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