

July 11, 2008

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

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

SUBJECT: STAFF REQUIREMENTS – COMSECY-08-0012 – DENIAL OF
PETITION FOR RULEMAKING (PRM-54-5) ON EMERGENCY
PLANNING REVIEWS DURING LICENSE RENEWAL

The Commission has approved the staff's recommendation to deny the petition for rulemaking, forward a letter to the petitioner notifying him of this decision, and to publish the *Federal Register* notice of the denial.

The staff should include the dissenting view of Commissioner Jaczko and the Commission's additional views (attached), at the end of the *Federal Register* notice.

Attachment: Dissenting View of Commissioner Jaczko and the Commission's additional views

cc: Chairman Klein
Commissioner Jaczko
Commissioner Lyons
Commissioner Svinicki
OGC
CFO
OCA
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR

SECY NOTE: TO BE MADE PUBLIC 5 BUSINESS DAYS AFTER LETTER TO PETITIONER IS DISPATCHED.

Dissenting view of Commissioner Jaczko

I disagree with the decision to deny this petition for rulemaking. Instead, I believe the review of a license renewal application authorizing, if granted, an additional twenty-years of operation, provides the opportune time at which the agency should re-evaluate emergency preparedness issues. Currently, the only time the NRC issues a comprehensive affirmative finding that both onsite and offsite emergency plans are in place around a nuclear power plant, and that they can be implemented, is at the time it grants an initial operating license. Although there are regular assessments of these plans through exercises and reviews, we do not periodically reassess that initial reasonable assurance of adequate protection of the public - even it was made decades ago - unless and until we find a serious deficiency in a biennial exercise. I believe considering emergency preparedness during the license renewal process would provide an opportunity to improve public confidence in the licensees and in all levels of government.

The additional views of the Commission follow:

The Commission majority does not share Commissioner Jaczko's dissenting view. As stated in each of our votes on this matter, and in support of the Commission's responsibility to oversee the safety and security of operating reactors, we continue to support the view that issues of relevance to both current plant operation and operation during the license renewal period must be addressed as they arise within the present license term rather than at the time of renewal. Emergency planning is such an issue. Through its standards and required exercises, the Commission ensures that existing emergency plans are adequate throughout the life of any plant, even in the face of changing demographics and other site-related factors. The emergency preparedness regulations in 10 CFR Part 50 require licensees to test the adequacy of their preparedness and ability to respond to emergency situations through the performance of a full-scale exercise at least once every two years. These drills and independent evaluations provide a process to ensure continued adequacy of emergency preparedness in light of changes in site characteristics. Consequently, consistent with the Commission's policy to confine the review of issues during license renewal to those uniquely relevant to protecting the public health and safety and common defense and security during the renewal period, we find no lost opportunity here and see no necessity for a review of emergency planning as part of the license renewal process.