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MFN 09-149

Docket No. 52-010

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U.S. Nuclear Regulatory Commission
Document Control Desk
Washington, D.C. 20555-0001

Subject: **ESBWR Design Certification Application – Non-RAI Related Changes for DCD Chapter 16 (Technical Specifications)**

The purpose of this letter is to submit an advance copy of the following non-RAI related changes that GE Hitachi Nuclear Energy (GEH) will incorporate in Revision 6 to the ESBWR DCD Chapter 16 Technical Specifications (TS):

1. The NRC issued a Federal Register notice (73 FR 16966, March 31, 2008) of the issuance of a final rule that amended 10 CFR Part 26. The revised regulations in 10 CFR Part 26, Subpart I supersede working hour restrictions contained in ESBWR generic TS 5.2.2, paragraph 'd'. Therefore, paragraph 'd' is deleted and subsequent paragraphs are renumbered, as shown in the Enclosure 1 markup. This change is consistent with the incorporation of TSTF-511, "Eliminate Working Hour Restrictions from TS 5.2.2 to Support Compliance with 10 CFR Part 26" (re: Notice of Availability, 73 FR 79923, December 30, 2008).

If you have any questions or require additional information regarding the information provided here, please contact me.

Sincerely,

Richard E. Kingston
Vice President, ESBWR Licensing

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Enclosure:

1. MFN 09-149 – DCD Markups for Chapter 16 (Technical Specifications).

cc: AE Cabbage USNRC (with enclosure)
RE Brown GEH (with enclosure)
DH Hinds GEH (with enclosure)
eDRF 98-1601

Enclosure 1

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DCD Markups for Chapter 16 (Technical Specifications)

5.2 Organization

5.2.2 Unit Staff (continued)

- b. Shift crew composition may be less than the minimum requirement of 10 CFR 50.54(m)(2)(i) and 5.2.2.a and 5.2.2.f for a period of time not be exceed 2 hours in order to accommodate unexpected absence of on-duty shift crew members provided immediate action is taken to restore the shift crew composition to within the minimum requirements.
- c. A radiation protection technician shall be on site when fuel is in the reactor. The position may be vacant for not more than 2 hours, in order to provide for unexpected absence, provided immediate action is taken to fill the required position.

~~d. Administrative procedures shall be developed and implemented to limit the working hours of personnel who perform safety related functions.~~

~~The controls shall include guidelines on working hours that ensure adequate shift coverage shall be maintained without routine heavy use of overtime.~~

~~Any deviation from the above guidelines shall be authorized in advance by the plant manager or the plant manager's designee, in accordance with approved administrative procedures, with documentation of the basis for granting the deviation. Routine deviation from the working hour guidelines shall not be authorized.~~

~~Controls shall be included in the procedures to require a periodic independent review be conducted to ensure that excessive hours have not been assigned.~~

- ed. The operations manager or assistant operations manager shall hold an SRO license.
 - fe. An individual shall provide advisory technical support to the unit operations shift crew in the areas of thermal hydraulics, reactor engineering, and plant analysis with regard to the safe operation of the unit. This individual shall meet the qualifications specified by the Commission Policy Statement on Engineering Expertise on Shift.
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