

IN RESPONSE, PLEASE  
REFER TO: M100311

March 11, 2010

MEMORANDUM FOR: Brooke Poole, Director  
Office of Commission Appellate Adjudication

R. W. Borchardt  
Executive Director for Operations

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

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 10:30 A.M.,  
THURSDAY, MARCH 11, 2010, COMMISSIONERS'  
CONFERENCE ROOM, ONE WHITE FLINT NORTH,  
ROCKVILLE, MARYLAND (OPEN TO PUBLIC ATTENDANCE)

- I. SECY-09-0160 – Progress Energy Carolinas, Inc. (Shearon Harris Nuclear Power Plant, Units 2 and 3), Notice of Appeal, Request for Oral Argument and Brief Supporting Notice of Appeal by NC WARN (July 22, 2009)

The Commission approved a Memorandum and Order in this combined license proceeding responding to the appeal of the North Carolina Waste Awareness and Reduction Network, Inc. (NC WARN) of three Board decisions; its motion for reconsideration of two Commission decisions (including its requests to suspend the proceeding); and its request for oral argument. The Memorandum and Order affirms the three Board decisions and denies NC WARN's requests for oral argument and to suspend the proceeding. Chairman Jaczko dissented in part to the Memorandum and Order.

(Subsequently, on March 11, 2010, the Secretary signed the Memorandum and Order.)

- II. SECY-09-0189 – Final Rule: 10 CFR 51.22, "Criterion For Categorical Exclusion; Identification of Licensing and Regulatory Actions Eligible for Categorical Exclusion or Otherwise Not Requiring Environmental Review" (RIN 3150-A127)

The Commission approved a final rule that amends the categorical exclusions in Section 51.22 of Title 10 of the *Code of Federal Regulations*, subject to the attached changes.

Following incorporation of these 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.

(EDO) (SECY Suspense: 4/16/10)

III. SECY-10-0005 – U.S. Department of Energy (High Level Waste Repository) Appeal of William D. Peterson

The Commission approved a Memorandum and Order responding to an appeal by Mr. William D. Peterson of the ruling by Construction Authorization Board 4 denying his Petition to Intervene. The Memorandum and Order declines to rule on Mr. Peterson's appeal, and disposes of his other motions.

(Subsequently, on March 11, 2010, the Secretary signed the Memorandum and Order.)

Attachment: Changes to the Final Rule in SECY-09-0189

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

## Changes to the Final Rule in SECY-09-0189

1. The staff should make the following changes to the *Federal Register* notice: [KLS]
  - a. On page 14, 1<sup>st</sup> full paragraph, revise line 2 to read ‘ ... that the granting ....’ Revise the last line to read ‘ ... protection, and is ....’
  - b. On page 14, 2<sup>nd</sup> full paragraph, revise line 3 to read ‘ ... health, safety, or ....’
  - c. On page 15, 1<sup>st</sup> full paragraph, revise line 5 to read ‘ ... safety-related ....’
  - d. On page 15, last paragraph, revise line 5 to read ‘ ... safety-related ....’
  - e. On page 16, 1<sup>st</sup> full paragraph, revise line 6 to read ‘ ... requirements. Thus, along with these ....’
  - f. On page 18, in the title to paragraph C, delete the question mark.
  - g. On page 19, last paragraph, revise line 9 to read ‘ ... 51.22(c)(9) are is met ....’
  - h. On page 25, 2<sup>nd</sup> full paragraph, revise line 3 to read ‘ ... that limits its ....’ Revise the last line to read ‘ ... excavating, or ....’
  - i. On page 28, insert a blank line above the title to Section VI.