

**AFFIRMATION ITEM**

**RESPONSE SHEET**

TO: Annette Vietti-Cook, Secretary  
FROM: Chairman Gregory B. Jaczko  
SUBJECT: SECY-11-0053 – FINAL RULE: ENHANCEMENTS TO  
EMERGENCY PREPAREDNESS REGULATIONS  
(10 CFR PART 50 AND 10 CFR PART 52)  
(RIN-3150-AI10)

Approved  X  Disapproved   Abstain

Not Participating

COMMENTS: Below   Attached  X  None

  
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SIGNATURE

5/26/11   
\_\_\_\_\_  
DATE

Entered on "STARS" Yes  X  No

**CHAIRMAN GREGORY B. JACZKO'S COMMENTS ON SECY-11-0053 FINAL RULE:  
ENHANCEMENTS TO EMERGENCY PREPAREDNESS REGULATIONS (10 CFR PART 50  
AND 10 CFR PART 52)**

I approve the staff's request to publish a final rule to amend certain emergency preparedness requirements in the regulations that govern the domestic licensing of production and utilization facilities. I believe that it is critically important that we finalize this rule as it is the culmination of several years of hard work to re-evaluate EP regulations that were decades old. Although we will certainly learn from the events in Japan, I do not think that we need to wait to implement the many enhancements that this rule will provide, particularly related to security events. The development of this rule has been a multi-year process that has recognized that Emergency Preparedness is a shared responsibility of federal agencies, state and local authorities, and the private sector. That is why we have gone well beyond what is formally required to involve the public, licensees, and other stakeholders in this process. Throughout this multi-year effort, they actively participated and contributed significantly to the development of this rule, and it is a stronger, more effective regulation because of their participation. This is a model of how we should approach our rulemaking in this area and others.

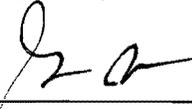
The staff has done an admirable job of providing a final rule package that is reflective of the extensive outreach to a broad audience of stakeholders, as well as being responsive to the Commissions' comments on the draft rule provided in SECY-09-0007. This rule has also been challenging in its development as it required close coordination with FEMA and its stakeholders. The comments made by FEMA at the Commission meeting on May 3, 2011, clearly indicated that the staffs at both agencies have been and will continue to work closely to coordinate our respective regulatory responsibilities for emergency preparedness. I believe it was very beneficial for all stakeholders to have the opportunity to review draft guidance along with the proposed rule language. I think this is a good practice that, whenever possible, should be utilized as part of our rulemaking process.

This rule provides a number of enhancements, some of which have evolved since the proposed rule was first provided to the Commission in 2006. I have followed the development of several important issues related to the rule over the years and I am pleased with the final outcome. In particular, the incorporation of a number of enhancements related to security-related EP issues that had been previously provided to licensees in NRC Order EA-02-026 and Bulletin 2005-02 are now part of the EP rules. These include a requirement for licensees to have Emergency Action Levels for Hostile Actions; a requirement to include hostile action scenarios and other scenario variations in drills and exercises; a requirement to provide specific emergency plan provisions to protect onsite emergency responders, and other onsite personnel in emergencies resulting from hostile action at nuclear power plants; and a requirement to identify alternative facilities to support Emergency Response Organization augmentation during a hostile action. This is reflective of insights developed after the 9/11 attacks and are necessary to deal with security-related events. Another improvement in the final rule is the requirement for licensees to review and update Evacuation Time Estimates periodically. I believe that the shift from a criteria of a 10-percent population changes in the proposed rule to a site-specific population increase that causes the longest ETE value to increase by 30 minutes or 25-percent, whichever is less than the licensee's currently NRC-approved or updated ETE is a practical approach. I do, however, agree with Commissioner Ostendorff that a stronger technical basis is needed for areas such as the backup alert and notification system and evacuation timing. In particular, I am concerned that the guidance that provides a methodology for evaluating changes to the ETEs may be too complex and difficult to inspect for accuracy. The staff will need to re-evaluate the guidance as experience is developed regarding this issue to ensure it is truly working as envisioned.

I continue to believe, as I have indicated in my past votes, that establishing near-site Emergency Operating Facilities (EOF) rather than consolidated EOFs is a more preferred

approach. All emergencies are local and possibly having responders many miles away, even in another state, trying to deal with all of the complicated issues that arise is not, in my view, practical or desired. Whenever possible, it should be encouraged that licensees establish their EOFs as close to sites as practical.

I will also look forward to ultimately receiving the staff's analysis of how we can develop a more performance-based approach to EP. I noted that performance based criteria for Emergency Operations Facilities are part of this final rule. It is a good beginning but should go further. I believe that this will ultimately provide a stronger regulatory approach for emergency preparedness.

  
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Gregory B. Jaczko

5/26/11  
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Date