

December 14, 2004

MEMORANDUM FOR: Luis A. Reyes
Executive Director for Operations

John F. Cordes, Director
Office of Commission Appellate Adjudication

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

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 9:25 A.M.,
TUESDAY, DECEMBER 14, 2004, COMMISSIONERS'
CONFERENCE ROOM, ONE WHITE FLINT NORTH,
ROCKVILLE, MARYLAND (OPEN TO PUBLIC ATTENDANCE)

I. SECY-04-0211 - Final Amendments to 10 CFR Part 50, Appendix E, Relating to (1) Nuclear Regulatory Commission Review of Changes to Emergency Action Levels, Paragraph IV.B and (2) Exercise Requirements for Co-located Licensees, Paragraph IV.F.2

The Commission approved a final rule amending 10 CFR Part 50, Appendix E, to revise current regulations on NRC approval of licensee changes to emergency action levels and clarify exercise requirements for co-located licensees. The Commission has voted to approve the publication and implementation of this final rule subject to the changes noted in the attachment.

Following incorporation of these changes, the Federal Register notice should be reviewed by the Rules Review and Directives Branch in the Office of Administration and forwarded to the Office of the Secretary for signature and publication.

(EDO) (SECY Suspense: 1/14/05)

II. SECY-04-0225 - State of Alaska Department of Transportation and Public Facilities (Confirmatory Order Modifying License); Intervenor's Motion for Reconsideration of CLI-04-26

The Commission approved a Memorandum and Order responding to a Motion for Reconsideration of CLI-04-26 from Robert Farmer. The Memorandum and Order denies Farmer's Motion for Reconsideration of CLI-04-26.

(Subsequently, on December 14, 2004, the Secretary signed the Memorandum and Order.)

III. SECY-04-0228 - Hydro Resources, Inc. Petition for Review of LBP-04-23 (FEIS Supplementation)

The Commission approved a Memorandum and Order responding to Petitions for Review of LBP-04-23 by Eastern Navajo Dine Against Uranium Mining and Southwest Research and

Information Center (intervenors). The Memorandum and Order denies the Petitions for Review of LBP-04-23.

(Subsequently, on December 14, 2004, the Secretary signed the Memorandum and Order.)

Attachment: Changes to the Final Rule in SECY-04-0211

cc: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
EDO
DOC
OGC
CFO
OCAA
OCA
OIG
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR

Changes to the Final Rule in SECY-04-0211

Changes to the Federal Register Notice

1. On page 2, 1st full paragraph, revise line 2 to read ' ... regulations regarding the **threshold for when** NRC approval' Revise line 3 to read ' ... changes to EALs **is required.**' Revise the next to last line to read ' ... industry practice **has been** ~~is~~ to seek NRC'
2. On page 3, paragraph 1, revise line 5 to read ' ... changes that ~~have the potential to~~' Revise line 13 to read ' ... EAL change ~~may potentially~~ reduces the' Revise line 14 to read ' ... EAL changes that ~~may~~'
3. On page 3, last paragraph, revise lines 3 through 5 to read ' ... with the regulations **is of sufficient significance to require** ~~will always involve a potential reduction in effectiveness. The potential safety significance of a change from one EAL scheme to another, or when proposing an alternative, is such that~~ prior NRC review and'
4. On page 4, revise line 1 from the top to read ' ... approval. **NRC review and approval for such major changes in EAL methodology is necessary** to ensure that there'
5. On page 7, paragraph 1, revise line 9 to read ' ... the licensee's' onsite Emergency Planning (EP) programs, FEMA's' Revise line 10 to read ' ... offsite EP programs, and the'
6. On page 8, 1st full paragraph, revise line 1 to read ' ... different licensees² whose'
7. On page 10, paragraph 1, revise line 2 to read ' ... co-located licensees are' Revise line 4 to read ' ... co-located licensees must share'
8. On page 10, revise line 1 after the numbered list to read ' ... co-located licensees are'
9. On page 11, paragraph 1, revise line 1 to read ' ... Actions), ~~third sentence~~ in lieu of'
10. On page 11, paragraph 2, revise line 4 to read ' ... and local governments annually'
11. On page 11, last paragraph, revise line 2 to read ' ... to §50.54(q), **with regard** ~~regarding~~ to emergency plan'
12. On page 13, paragraph 1, revise line 1 to read ' ... the list of ~~activities and interactions~~ A&I that'
13. On page 13, paragraph 3, revise line 4 to read ' ... paragraphs 10 CFR 50.476(b) and Appendix'
14. On page 20, last paragraph, revise line 2 to read ' ... regarding the **threshold for when** NRC approval of' Revise line 3 to read ' ... emergency action levels **is required.**'

15. On page 21, 2nd full paragraph, revise lines 13 and 14 to read ' ... each licensed to a different licensees, and meet'
16. On page 23, paragraph 2, revise line 1 to read ' ... two different licensees' whose'
17. On page 24, 2nd full paragraph, revise line 3 to read ' ... with different licensees, thus'
18. On page 24, revise the last line to read ' ... not to do revise the regulations.'
19. On page 25, paragraph 1, revise line 6 to read ' ... to EALs that reduce diminish the effectiveness' Revise line 8 to read ' ... licensees to make changes to improve their EALs'
20. On page 27, revise line 7 from the top to read ' ... average 30 hour(s) per'
21. On page 27, 1st full paragraph, revise line 2 to read ' ... average 30 hour(s) per'
22. On page 28, last paragraph, revise line 3 to read ' ... changes to their emergency plans which do' Revise line 4 to read ' ... the plans, 10 CFR Part'
23. On page 30, 4th full paragraph, revise line 2 to read ' ... Act of for 1954, as'
24. On page 34, paragraph 1, revise line 1 to read ' ... different licensees' whose'

Changes to the Regulatory Guide

25. On page 1, paragraph 1, revise line 1 paragraph c. to read 'For if two different licensees' whose'
26. On page 2, 2nd full paragraph, revise line 4 to read ' ... revised exercises requirements.'
27. On page 3, 1st full paragraph, revise line 3 to read ' ... not used portions' Revise line 6 to read ' ... Emergency Action Levels',³ that'
28. On page 3, 2nd full paragraph, line 2, revise the quotation marks after 'Levels' to be closing quotation marks.
29. On page 3, 3rd full paragraph, revise line 1 to read 'Revision 4 to Regulatory Guide 1.101 endorsed the'
30. On page 4, paragraph numbered 1., insert a period after the paragraph number. In paragraph 1.(c), revise line 1 to read 'Licensees to'
31. On page 5, 2nd bullet for the top, revise line 1 to read 'Licensee security'
32. On page 5, paragraph numbered 9., revise the 3rd bullet to read ' ... provides'