

February 4, 2011

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

FROM: Andrew L. Bates, Acting Secretary **/RA/**

SUBJECT: STAFF REQUIREMENTS – SECY-10-0117 – PROPOSED RULE:
REQUIREMENTS FOR MAINTENANCE OF INSPECTIONS,
TESTS, ANALYSES, AND ACCEPTANCE CRITERIA (RIN 3150-
AI77)

The Commission has approved the *Federal Register* Notice, subject to the revisions below and conforming changes, which need to be made to the Statements of Consideration and Congressional notification letters.

The following changes should be made to the *Federal Register* Notice.

- a. Page 48, add new item (c)(2) as indicated below:

(c)(2) *ITAAC post-closure notifications*. Following the licensee's ITAAC closure notifications under paragraph (c)(1) of this section until the Commission makes the finding under 10 CFR 52.103(g), the licensee shall notify the NRC, in a timely manner, of new information that materially alters the bases for determining that either inspections, tests, or analyses were performed as required, or that acceptance criteria are met. The notification must contain sufficient information to demonstrate that, notwithstanding the new information, the prescribed inspections, test, or analyses have been performed as required, and the prescribed acceptance criteria are met.

- b. Page 48, renumber existing item (c)(2) to (c)(3).

- c. Page 48-49, delete existing items (c)(3), (c)(3)(i), (c)(3)(ii), and (c)(4). Add new item (c)(4) as indicated below:

(c)(4) The licensee shall notify the NRC that all ITAAC are complete.

- d. Page 50, delete the second sentence of item (e)(1).

e. Page 50, revise item (e)(2) as follows: "The NRC shall make publicly available the licensee notifications under paragraphs (c)(1) and (f) of this section. The NRC shall make publicly available the licensee notifications under paragraphs (c)(1), (c)(2), and (c)(3), and (c)(4) of this section no later than the date of publication of the notice of intended operation required by 10 CFR 52.103(a)."

f. Page 51, delete items (f)(1) and (f)(2).

The Statements of Consideration (SOC) should explain the basis for a performance-based rule augmented by guidance. The SOC should also acknowledge that the Commission would not be solely relying on the existence of this proposed rulemaking, if approved as a final rule, as a primary basis for §52.103(g) finding. Rather, the Commission would use a holistic review using results from the NRC's construction inspection program and ITAAC closure review process as primary factors supporting a conclusion that the acceptance criteria in the combined license are met.

The staff should release Regulatory Guide 1.215, Revision 1 (proposed) at the same time or before the proposed rule is published in the *Federal Register*.

The staff should provide the Commission with a revised proposed rule for information 30 days before it is delivered to the *Federal Register* for publication.

As staff gains experience with the ITAAC closure process, and as enhancements are identified, programs that maintain and manage ITAAC should be modified to include these improvements. The Staff should periodically inform the Commission on the status of these programs.

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