

revisions to EALs and to implement them without requesting NRC approval after determining that the changes do not reduce the effectiveness of the emergency plan, in accordance with § 50.54(q). When the determination is made that a proposed change constitutes a decrease in effectiveness, licensees submit the changes to NRC for review and approval. If a change involves a major change to the EAL scheme, for example, changing from an EAL scheme based on NUREG-0654 guidance to an EAL scheme based on NUMARC/NESP-007 guidance, it has been the industry practice to seek NRC approval before implementing the change. The NRC has been aware of the industry practice and has not objected to it. The Commission believes that the current regulations are unclear and can be interpreted to require prior NRC approval for all changes to a licensee's EALs.

The Commission believes that NRC review and approval of every EAL change is not necessary to provide reasonable assurance that EALs will continue to provide an acceptable level of safety. The Commission's regulatory review should be focused on EAL changes that are of sufficient significance that a safety review by the NRC is appropriate before the licensee may implement the change. The Commission believes that EAL changes which have the potential to reduce the effectiveness of the emergency plan are of sufficient regulatory significance that prior NRC review and approval is warranted. This proposed standard is the same standard that the current regulations provide for determining whether changes to emergency plans (except EALs) require NRC review and approval. As such, this regulatory threshold has a long history of successful application, and this standard should also be used for EAL changes. Based upon the NRC's inspections of emergency plans, including EAL changes the Commission believes that licensees have been, in general, making appropriate determinations regarding whether an EAL change may potentially reduce the effectiveness of the emergency plan and have the capability to continue to do so. Limiting the NRC's review and approval to EAL changes which may reduce the effectiveness of emergency plans will ensure adequate NRC oversight of licensee-initiated EAL changes, while both increasing regulatory effectiveness (through use of a single consistent standard for evaluating all emergency plan changes) and reducing unnecessary regulatory burden on licensees (who would not be required to submit for

approval EAL changes that do not decrease the effectiveness of the emergency plan).

The Commission believes a licensee proposal to convert from one EAL scheme (e.g., NUREG-0654-based) to another EAL scheme (e.g., NUMARC/NESP-007-based) will always involve a potential reduction in effectiveness. While the new EAL scheme may, upon review, be determined by the NRC to provide an acceptable level of safety and be in compliance with applicable NRC requirements, the potential safety significance of a change from one EAL scheme to another is such that prior NRC review and approval is appropriate to ensure that there is reasonable assurance that the proposed EAL change will provide an acceptable level of safety or otherwise result in non-compliance with applicable Commission requirements on emergency preparedness.

Accordingly, the Commission proposes to revise Appendix E to 10 CFR part 50 to provide that NRC approval of EAL changes would be necessary for all EAL changes that decrease the effectiveness of the emergency plan and for changing from one EAL scheme (e.g., NUREG-0654-based) to another EAL scheme (e.g., NUMARC/NESP-007-based).

#### (2) Exercise Requirements for Co-Located Licensees, 10 CFR part 50, Appendix E, Paragraph IV.F.

A. Rulemaking addressing exercise requirements for co-located licensees. The emergency planning regulations were significantly upgraded in 1980 after the accident at Three Mile Island (45 FR 55402; August 19, 1980). The 1980 regulations required an annual exercise of the onsite and offsite emergency plans. In 1984, the regulations were amended to change the frequency of participation of State and local governmental authorities in nuclear power plant offsite exercises from annual to biennial (49 FR 27733; July 6, 1984). In 1996, the regulations were amended to change the frequency of exercising the licensees' onsite emergency plan from annual to biennial (61 FR 30129; June 14, 1996). 10 CFR part 50, Appendix E to part 50, Paragraph IV.F.2, currently provides that the "offsite plans for each site shall be exercised biennially" with the full (or partial) participation of each offsite authority having a role under the plans, and that "each licensee at each site" shall conduct an exercise of its onsite emergency plan every 2 years, an exercise that may be included in the full participation biennial exercise

(emphasis added).<sup>1</sup> Thus, Paragraph IV.F.2 is ambiguous about the emergency preparedness exercise requirements where multiple nuclear power plants, each licensed to different licensees, are co-located at the same site: whether each licensee must participate in a full-participation exercise of the off-site plan every two years, or whether the licensees may alternate their participation such that a full-participation exercise is held every two years and each licensee (at a two-licensee site) participates in a full-participation exercise every four years.

Upon consideration of the language of the current regulation and the legislative history of the exercise requirements, the Commission believes that the ambiguity in the current regulation can be interpreted such that each nuclear power plant licensee co-located on the same site must participate in a full-participation offsite exercise every two years (and that each offsite authority is to participate on either a full or partial participation basis in each licensee's biennial offsite exercise). Upon consideration of the matter, the Commission believes that requiring each licensee on a co-located site to participate in a full-participation

<sup>1</sup> 10 CFR part 50, Appendix E, IV.F.2, states:

2. The plan shall describe provisions for the conduct of emergency preparedness exercises as follows: Exercises shall test the adequacy of timing and content of implementing procedures and methods, test emergency equipment and communications networks, test the public notification system, and ensure that emergency organization personnel are familiar with their duties.

a. \* \* \*

b. Each licensee at each site shall conduct an exercise of its onsite emergency plan every 2 years. The exercise may be included in the full participation biennial exercise required by paragraph 2.c. of this section. \* \* \*

c. Offsite plans for each site shall be exercised biennially with full participation by each offsite authority having a role under the plan. Where the offsite authority has a role under a radiological response plan for more than one site, it shall fully participate in one exercise every two years and shall, at least, partially participate in other offsite plan exercises in this period. "Full participation" when used in conjunction with emergency preparedness exercises for a particular site means appropriate offsite local and State authorities and licensee personnel physically and actively take part in testing their integrated capability to adequately assess and respond to an accident at a commercial nuclear power plant. "Full participation" includes testing major observable portions of the onsite and offsite emergency plans and mobilization of state, local and licensee personnel and other resources in sufficient numbers to verify the capability to respond to the accident scenario. "Partial participation" when used in conjunction with emergency preparedness exercises for a particular site means appropriate offsite authorities shall actively take part in the exercise sufficient to test direction and control functions; i.e., (a) protective action decision making related to emergency action levels, and (b) communication capabilities among affected State and local authorities and the licensee.