

No. 92-196
Tel. 301-504-2240

FOR IMMEDIATE RELEASE
(Wednesday, December 30, 1992)

NRC ISSUES REQUIREMENTS GOVERNING
EXCLUSION OF COUNSEL FROM INTERVIEWS UNDER SUBPOENA

The Nuclear Regulatory Commission has amended its regulations to provide for the exclusion of counsel from interviews of a subpoenaed witness.

Counsel will be excluded when that counsel represents multiple interests in the investigation or inquiry and there is concrete evidence that such representation at the interview would obstruct and impede the investigation. The amendments are designed to ensure the integrity and efficacy of the investigative and inspections processes.

In an earlier rule, issued on January 4, 1990, the Commission had provided for the exclusion of counsel representing multiple interests from interviews under subpoena when the NRC official conducting the interview had a "reasonable basis" to believe that the investigation might be obstructed, impeded or impaired.

In a decision on July 23, 1991, however, the United States Court of Appeals for the District of Columbia Circuit vacated those regulatory provisions as insufficiently rigorous for infringement on the right of a witness to counsel of choice. The new rule follows the guidance of the Appeals Court in adopting a "concrete evidence" standard for exclusion of counsel.

The amendment to Part 19 of the Commission's regulations will become effective on March 1, 1993.

#