Action: Kane, NMSS
Cys: Travers
Paperiello
Miraglia
Norry
Blaha
Collins, NRR
Lohaus, SP
Shelton, CIO
Meyer, ADM
Schroll, SECY
Tanious, NMSS
Brochman, NMSS

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

SECRETARY

September 17, 1999

MEMORANDUM TO: William D. Travers
Executive Director for Operations

FROM: Annette Vietti-Cook, Secretary

SUBJECT: STAFF REQUIREMENTS - SECY-99-200 - FEDERAL REGISTER NOTICE RESPONDING TO PUBLIC COMMENTS RECEIVED ON AN EMERGENCY FINAL RULE FOR FISSILE MATERIAL SHIPMENTS

The Commission has approved the proposed Federal Register notice (FRN) subject to the following comments and the changes noted in the attachment.

1. The staff should take the following actions to address the potentially significant unintended economic impact on the shipment of fissile material without special moderators (the unintended impact issue) that was imposed by the emergency rule :

   a. Revise the FRN to indicate that the unintended impact issue will be addressed as part of the rulemaking to make Part 71 compatible with IAEA transportation standards.

   b. Revise the FRN to note the NRC need for data to document the unintended impact of the emergency rule. This approach will place the industry on notice that the data is needed.

   ~~(EDO)~~ (NMSS) (SECY Suspense (items 1.a & 1.b): 10/22/99) 199700018

   c. Prepare an overall rulemaking plan for Part 71 that addresses the need for changes to make NRC regulations compatible with IAEA transportation standards and also addresses the unintended impacts of the emergency rule. This should be completed by May 31, 2000. If the rulemaking activities associated with IAEA compatibility are delayed, the staff should prepare a separate plan that addresses the unintended economic impacts of the emergency rule. This should also be completed by May 31, 2000.

   d. If, based on further analysis of the unintended economic impact of the emergency rule, the staff concludes that those impacts are far less than characterized in SECY 99-200, the staff should inform the Commission, with some description of the supporting basis, that rulemaking is not warranted, in lieu of preparing a rulemaking plan for this issue.

2. On page 16 of the FRN, a commenter stated that the wording of the rule is not clear with

respect to application of a limit to deuterium. The staff response clarifies the intent of the rule but does not state whether staff intends to amend the existing rule language to remove the ambiguity. The response should be modified to indicate that this will be done at the time the corrective amendment is proposed.

~~(EDO)~~ (NMSS) (SECY Suspense (items 1.c, 1.d, & 2): ~~5/31/00~~) 199700018
5/24/00 199800008

Attachment: Editorial Changes to the FRN in SECY-99-200

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

Attachment

Editorial Changes to the FRN in SECY-99-200

1. On page 1, in the summary paragraph, line 7, delete the italics so that 'Administrative Procedure Act' appear in normal text.

2. On page 6, last paragraph, line 4, delete the italics so that 'Administrative Procedure Act' appear in normal text.

3. On page 6, last paragraph, revise the last sentence to end after 'March 12, 1997' and insert the following after the period: 'Following publication of the emergency rule and receipt of public comments, the staff sought to study the technical issues raised by the public comments, and to perform an independent evaluation of Part 71 regulations relating to the fissile material exemption and general license limits. The NRC awarded a contract to the Oak Ridge National Laboratory (ORNL). The results of the ORNL study were published by NRC in July 1998 and noticed in the Federal Register on August 13, 1998.' Revise the remainder of the sentence to read 'This notice responds to the comments received on the rule and the results of the Oak Ridge National Laboratory study.'

4. On page 10, 1st full paragraph, revise line 9 to read ' ... Commission has not, as yet, been able to obtain specific information regarding ~~substantiate~~ the burden claim ....'

5. On page 12, paragraph 2, revise line 8 to read ' ... the staff has not been able to obtain specific information regarding ~~substantiate~~ the burden ....' In line 9, delete the comma after 'consider'.

6. On page 13, 4th full paragraph, line 1, delete the comma after 'rule'.

7. On page 15, line 13 from the top, delete 'with NEI'.

8. On page 16, top paragraph, delete the last sentence (The National Technology Transfer ... or otherwise impractical.).