IN RESPONSE, PLEASE
REFER TO: M000725

July 25, 2000

MEMORANDUM FOR: William D. Travers
Executive Director for Operations

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

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 3:25 P.M., TUESDAY, JULY 25, 2000, COMMISSIONERS' CONFERENCE ROOM, ONE WHITE FLINT NORTH, ROCKVILLE, MARYLAND (OPEN TO PUBLIC ATTENDANCE)

I. SECY-00-0111 - Final Rule to Amend Part 70, Domestic Licensing of Special Nuclear Material

The Commission approved a final rule, subject to the attached changes, amending 10 CFR Part 70, Domestic Licensing of Special Nuclear Material for certain licensees authorized to possess a critical mass of special nuclear material. The final rule identifies performance requirements for prevention of accidents or mitigation of their consequences; requires affected licensees to perform an integrated safety analysis to identify potential accidents at the facility and the items relied on for safety necessary to prevent these potential accidents and/or mitigate their consequences; requires the implementation of measures to ensure that the items relied on for safety are available and reliable to perform their function when needed; requires the safety bases to be maintained and changes reported to the NRC; allows licensees to make certain changes to their safety program and facilities without prior NRC approval; requires reporting of certain events; and requires NRC to perform a backfit analysis under specified conditions.

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: 8/25/00)

The staff should continue to work with stakeholders to ensure that the SRP contains sufficient detail as to provide concrete guidance, but not such prescriptive requirements as to interfere with a performance-based approach to compliance. The staff should submit the final SRP to the Commission for information.

II. SECY-00-0134 - Final Rule: 10 CFR Part 72 -- Clarification and Addition of Flexibility

The Commission approved a final rule, subject to the attached changes, amending 10 CFR Part 72 to clarify which sections apply to general licensees and certificate holders. This final rule also eliminates repetitive review of previously approved storage cask designs and adds some flexibility to begin cask fabrication before the NRC issues the Certificate of Compliance.

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: 8/25/00)

Attachments: 1) Changes to the Final Rule in SECY-00-0111
2) Changes to the Federal Register Notice in SECY-00-0134

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

Attachment 1

Changes to the Final Rule in SECY-00-0111

1. The Commission approves the use of multiple ISAs for each facility. The staff should immediately invoke the applicability of the backfit provisions for portions of the facility at the time of approval of its ISA summary. The staff should ensure that the ISAs provide an integrated analysis of all the hazards at the facility and that synergistic effects among "independent" ISAs are being properly addressed. The staff should make changes to the rule and/or statement of considerations, as appropriate, to clearly reflect this position.

2. The rule should become effective 30 days after publication, rather than after completion of the SRP.

3. The Commission has approved inclusion of the word "substantial" into the backfit requirement in § 70.76(a)(3). Staff should develop guidance to make clear that an adequate demonstration can be based on quantitative or qualitative evaluations of the nature of the increase in the overall health and safety protection of the public.

4. The Commission disapproved the requirement for quarterly reporting to the NRC of changes to items relied on for safety in the ISA. This report should be an annual requirement. In addition, the staff should clarify the language currently in Part 70.72(d)(1) to better explain what type of changes meet this annual reporting threshold and the value of that threshold to the NRC.

5. In § 70.62(d), revise the second sentence to read ' ... engineered or administrative control system may be graded commensurate with the reduction ....'

Attachment 2

Changes to Federal Register Notice in SECY-00-0134

1. On page 7, 1st full paragraph, revise the last 2 lines to read ' ... applicants for a specific license. R~~r~~ather, this rule requires ....'

2. On page 7, 2nd full paragraph, revise lines 4 and 5 to read ' ... expects that a new ~~, or in lieu,~~ QA program or an existing Part 50 or Part 71 QA program used by these persons will comply with the requirements of Part 72, Subpart G.' Delete the last sentence in this paragraph (This would apply to ... QA program.)