

IN RESPONSE, PLEASE
REFER TO: M990622

June 22, 1999

MEMORANDUM FOR: William D. Travers
Executive Director for Operations

FROM: Annette Vietti-Cook, Secretary /s/

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 3:00 P.M.,
TUESDAY, JUNE 22, 1999, COMMISSIONERS' CONFERENCE
ROOM, ONE WHITE FLINT NORTH, ROCKVILLE, MARYLAND
(OPEN TO PUBLIC ATTENDANCE)

I. SECY-99-130 - Final Rule - Revisions to Requirements of 10 CFR Parts 50 and 72
Concerning Changes, Tests, and Experiments

The Commission¹ approved a final rule amending 10 CFR 50.59 and related requirements in Parts 50 and 72 concerning the authority for licensees of production and utilization facilities, such as nuclear reactors and for independent spent fuel storage facilities, and for certificate holders for spent fuel storage casks, to make changes to their facilities and procedures, or to conduct tests and experiments without prior NRC approval. The Commission approved publication and implementation of this final rule subject to the comments and changes provided in the attachment and any related conforming changes.

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:

7/23/99)

Attachment:
As stated

¹ Section 201 of the Energy Reorganization Act, 42 U.S.C. Section 5841, provides that action of the Commission shall be determined by a "majority vote of the members present." Commissioners Dicus, Diaz, McGaffigan, and Merrifield were present in the meeting room. Chairman Jackson participated in the meeting via speakerphone.

cc: Chairman Jackson
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
DCS - P1-17

Changes to the Federal Register Notice

1. To ensure that the NRC can properly oversee the implementation of the new rule, any implementation should be deferred until the Commission has approved the Regulatory Guide. The process for developing the guidance should be as transparent as possible, with successive drafts of the guidance available to all on the NRC's Web site.

The effective date of the final rule shall be 90 days following Commission approval of the Regulatory Guide. The final Regulatory Guide should be submitted to the Commission for approval.

(EDO)

(SECY Suspense:

5/30/2000)

2. Since the guidance specific to Part 72 facilities is expected to be available at a later date than that for Part 50 facilities, the effective date for these sections should be separately established at 18 months from the publication of the final rule in the Federal Register. The staff shall provide the Part 72 guidance to the Commission for information.
3. The Commission disapproved the proposed enforcement criterion which would impose a Severity Level III violation for a licensee's failure to submit an amendment as required if a substantial review (based on the merits of the technical issues) is needed by the NRC before it could conclude that the licensee's actions were acceptable. Instead, the enforcement policy should consider the safety significance of the violation in question and the impact of the violation on the ability of the NRC to regulate effectively. The FRN should be revised accordingly.
4. On page 6, under Section II, line 11, add an 's' to 'support'.
5. On page 11, 2nd full paragraph, line 5, insert a semicolon after 'changes'.
6. On page 33, paragraph 3, line 4, change the first comma to a period.
7. On page 42, 1st full paragraph, revise line 5 to read ' ... acceptance values in the **regulations** ~~regulatory requirements~~'
8. On page 59, lines 1 through 5, delete the parentheticals to be consistent with the deletion of Example 4 on page 64.
9. On page 64, delete example 4.
10. On page 77, paragraph (e), line 6, insert the missing sentence to conform the language to that on page 136.
11. On page 77, paragraph (e), revise lines 6 and 7 to read 'The submittal **shall include** ~~must describe~~ the effects'
12. On page 77, paragraph (e), line 7, insert a colon after 'of'.

13. On page 90, paragraph 2, revise line 8 to read ' ... this has been changed~~s~~ to require'
14. On page 111, paragraph (a), line 5, move the start of the parentheses to before 'as'.
15. On page 112, paragraph (c)(2), line 9, delete the quotation mark after the period.
16. On page 133, revise paragraph (vii) to read ' ... for a fission product barrier **as described in the FSAR (as updated)** being exceeded'
17. On page 133, revise paragraph (4) to read ' ... do not apply to changes to **the facility or** procedures when'
18. On page 142, revise paragraph (C)(2)(ii) to read ' ... minimal increase in the likelihood of **occurrence of** a malfunction'