

IN RESPONSE, PLEASE
REFER TO: M990825

August 25, 1999

MEMORANDUM FOR: William D. Travers
Executive Director for Operations

FROM: Annette Vietti-Cook, Secretary /s/

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 9:55 A.M.,
WEDNESDAY, AUGUST 25, 1999, COMMISSIONERS'
CONFERENCE ROOM, ONE WHITE FLINT NORTH,
ROCKVILLE, MARYLAND (OPEN TO PUBLIC ATTENDANCE)

I. SECY-99-174 - Final Rule: Expand Applicability of 10 CFR Part 72 to Holders of, and Applicants for, Certificates of Compliance, and Their Contractors and Subcontractors

The Commission approved a final rule, subject to the attached changes, which amends 10 CFR Part 72 to clarify the regulatory requirements imposed on holders of, and applicants for, certificates of compliance under this part. The Commission has not approved the extension of NRC requirements under Part 72, Subpart G, to contractors and subcontractors.

Following incorporation of the attached 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:

9/24/99)

Attachment:
As stated

cc: Chairman 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 10 CFR Part 72 Rulemaking Package in SECY-99-174

Changes to the Federal Register Notice

1. On page 1, in the first sentence, replace 'its regulations' with '10 CFR Part 72' so it reads ' ... (NRC) is amending its regulations **10 CFR Part 72** to clarify the'
2. On page 17, revise the last two lines to read ' ... in the design process, all fabricators typically do is build the cask to the design given to them **provided** by the certificate holder.'

Changes to the Policy Statement

3. On page 3, revise lines 4-5 from the top to read ' ... by these persons, it has **taken administrative action by issuing** issued a Notice of Nonconformance (NON) **or a Demand for Information** rather than'
4. On page 3, revise line 6 from the top to read ' ... in a position to issue **an NOV's and Orders.**'
5. On page 3, add the following to the end of the top paragraph: 'The final Part 72 rule does not provide authority for issuing civil penalties to nonlicensees other than that already provided under the Deliberate Misconduct Rule in section 72.12.'

Changes to the Congressional Letters

6. In paragraph 2, revise line 8 to read ' ... in the format of a Notice of Nonconformance **or Demand for Information** which lacks the'

Changes to the Press Release

7. Revise the title to read ' ... SPENT FUEL STORAGE CASK DESIGNERS **CERTIFICATES**'.
8. In paragraph 1, revise the last line to read ' ... spent fuel storage industry **in recent years.**'
9. At the end of paragraph 2, add the following: 'This action will emphasize the safety and regulatory significance associated with violations of the regulations by allowing NRC to take enforcement action rather than administrative action when violations of NRC requirements have occurred.'
10. At the end of the last paragraph, add the following: 'In addition, the NRC is publishing a

revision to its Enforcement Policy (NUREG-1600; Rev 1) for public comment to clarify that enforcement action may be taken against nonlicensees for violations of 10 CFR Part 72.'