

April 27, 1993

MEMORANDUM FOR: James M. Taylor
Executive Director for Operations

FROM: Samuel J. Chilk, Secretary /s/

SUBJECT: SECY-92-430 - PROPOSED AMENDMENTS TO 10 CFR
PART 55 ON RENEWAL OF LICENSES AND
REQUALIFICATION REQUIREMENTS FOR LICENSED
OPERATORS

The Commission (with all Commissioners agreeing) has approved the publication of the proposed amendments for public comment, subject to incorporation of the following changes.

The Commission agrees with the staff that although NRC's role in administering requalification examinations has provided an important incentive for licensees to improve operator training programs to the higher levels of effectiveness seen today, it is now appropriate to transfer some of the responsibility to administer the exams back to the licensees.

The regulations, as written, allow the Commission the option of administering requalification examinations as it deems necessary, using the flexible authority in 10 CFR 55.59(a)(2)(iii), and it is appropriate to state so in the amendment documents. However, the Commission does not believe that the staff should, as a matter of course, administer exams periodically. The Commission (with the Chairman and Commissioners Remick and de Planque agreeing) fully expects the staff to administer exams for cause, and as otherwise approved by the Commission. The proposed amendment and associated documents should be modified as shown on the attached pages and elsewhere as needed to be consistent with this approach.

Commissioners Rogers and Curtiss believe that the staff should be allowed the discretion to administer exams as they feel necessary. The separate views of Commissioners Rogers and Curtiss are attached as well as the additional views of the Chairman and Commissioners Remick and de Planque.

SECY NOTE: THIS SRM, SECY-92-430, AND THE VOTE SHEETS OF ALL COMMISSIONERS WILL BE MADE PUBLICLY AVAILABLE 10

WORKING DAYS FROM THE DATE OF THIS SRM

The Commission has concerns regarding the proposed amendment to 55.59, which would require that facility licensees submit to the NRC each annual operating test or comprehensive written examination at least thirty days prior to conducting such test or exam. The Commission encourages the staff to consider arranging for test submittal on a case-by-case basis, consistent with its inspection program needs. The staff should solicit public comments on this provision from both the aspect of drain on NRC resources and of burden on licensees and address these concerns as part of its preparation of the final rule.

The FRN should be revised as noted above, the Commissioners views should be added to the FRN, it should be reviewed by the Regulatory Publication Branch, Adm., and returned for signature and publication.

(EDO)

(SECY Suspense: 5/15/93)

Attachments:
As stated

cc: The Chairman
Commissioner Rogers
Commissioner Curtiss
Commissioner Remick
Commissioner de Planque
OGC
OIG
Office Directors, Regions, ACRS, ACNW (via E-Mail)
OP, SDBU/CR, ASLBP (via FAX)

Commissioner Curtiss' separate views on SECY-92-430.

The staff has proposed that they be allowed to administer requalification examinations in two situations: (i) where cause exists for administering such examinations; and (ii) on a periodic basis, at a specified frequency of once every six years at each facility. There is no disagreement within the Commission over allowing the staff to administer "for cause" examinations. The dispute arises over whether the staff should be afforded the discretion to administer examinations in situations other than where "cause" exists, without first coming to the Commission for advance approval. The staff has recommended that they be allowed the flexibility to administer such examinations at their discretion and, with one minor exception, I agree with the staff's recommendation. [I do not believe it wise or essential to specify a set periodicity for such examinations of once every six years, and, on this point, I concur in the majority view].

The majority, as I understand it, would limit the staff to administering examinations solely "for cause", and would not allow the staff to administer examinations in any other situation absent formal approval by the Commission (*i.e.*, where, in the staff's discretion, the staff deems it appropriate to do so). There are compelling reasons, in my judgment, for allowing the staff the flexibility to administer such "discretionary" examinations on its own accord. In this regard, Commissioner Rogers has set forth the reasons for allowing the staff to administer such examinations, and I concur in the reasons that he has articulated so persuasively.

Given the significant changes in the agency's operator requalification program that the staff has proposed in SECY-92-430 (and in which I generally concur), I would have preferred a more cautious transition, wherein the effectiveness of the new regulatory approach could be confirmed through such discretionary examinations, before placing reliance on "for cause" examinations and an unproven inspection regime. This is particularly important given the continuing identification of weaknesses in licensee training programs uncovered by our current examination process. Accordingly, I believe that it would be a prudent step to allow the staff this flexibility. In my judgment, the majority's insistence upon requiring the staff to come to the Commission for advance approval in every such instance is, as a practical matter, likely to discourage the staff from administering such examinations where they may indeed be warranted.

For the foregoing reasons, I disagree with the decision of the majority to foreclose the staff from administering examinations in such circumstances, absent formal approval by the Commission. I also associate myself with Commissioner Rogers' comments.

Additional comments of the Chairman, and Commissioners Remick and de Planque on SECY-92-430.

The Chairman and Commissioners Remick and de Planque believe that all of the objectives listed by Commissioner Rogers and endorsed by Commissioner Curtiss can be met, and are being met, through various alternatives to administering requalification tests and exams periodically. For example, the staff will continue to administer an estimated 700-800 initial operator license examinations per year; it will conduct examinations for cause using the flexible authority already provided by the regulations, and as otherwise approved by the Commission; it will observe the administration of examinations by the licensees as part of both the NRC's inspection program activities and INPO's and the National Academy of Nuclear Training's accreditation and assessment activities, permitted by the NRC/INPO MOU; and the staff will have the benefit of continuous observation by Resident Inspectors.

These existing alternatives provide considerable opportunity for the staff to assess the effectiveness of licensee training programs. Indeed, the proposed Statement of Considerations says that the agency "expects to find and correct programmatic weaknesses more rapidly and improve operational safety by redirecting the examiner resources to inspect programs," (p. 8, our emphasis.) If the staff identifies weaknesses in licensee training programs, the staff may then exercise the flexible authority of 10 CFR 55.59 (a)(2)(iii) to administer requalification tests and exams for cause.

Staff expertise needed to administer requalification tests and examinations can also be maintained by participation in training courses, just as staff expertise such as that needed by IIT members is maintained. Innovative concepts like administering examinations and tests to instructors and appropriate operator licensing personnel on the simulators at the Technical Training Center is another way of maintaining this kind of staff expertise.

If the staff finds that with experience there is, in fact, a basis for administering periodic exams or any other alternatives, they are at liberty to provide the rationale and plan for Commission consideration. However, the information the staff has presented does not convince us of any necessity for administering periodic exams.

Commissioner Rogers' separate views on SECY-92-430.

Commissioner Rogers believes that the staff should be allowed the discretion to administer exams as they feel necessary, i.e., other than for cause, without receiving prior Commission approval. Reasons for allowing the staff to administer discretionary exams include:

1. Providing an additional incentive to licensees to maintain the quality of their operator training programs.
2. Providing a benchmark with good performing plants by which to judge the adequacy of the licensees' operator training programs.
3. Providing a basis to determine whether or not licensee examiner standards need to be revised.
4. Providing an independent check of the quality of the licensees' operator training programs.
5. Providing the NRC staff the opportunity to maintain its examination expertise.
6. Ensuring that the latest, state-of-the-art testing and assessment techniques are being used.