

October 16, 1992

MEMORANDUM FOR: James M. Taylor
Executive Director for Operations

FROM: Samuel J. Chilk, Secretary /s/

SUBJECT: SECY-92-326 - LICENSEE'S ANNOUNCEMENTS OF
SAFEGUARDS INSPECTIONS RULEMAKING

This is to advise you that the Commission (with all Commissioners agreeing) has approved the publication of the proposed rule subject to:

- 1) Adding the following paragraph to the draft FRN after the first paragraph of the Supplementary Information:

As the NRC said when it promulgated 10 CFR 50.70(b)(4), which prohibits nuclear power reactor licensees from communicating the arrival or presence of an NRC inspector unless asked to do so by the inspector (see 53 Fed. Reg. 42939, 42940, Oct. 25, 1988), the NRC expects to reserve enforcement action only for significant intentional violations of the prohibition. For example, the NRC recognizes the possibility of inadvertent communication of an inspector's presence. An honest response by an employee to an innocent inquiry that he just saw an NRC inspector is not proscribed by the rule. Therefore, an employee would not be required to lie, in response to a question, about the presence of an NRC inspector. Similarly, the NRC recognizes the possibility that some communication of an inspector's presence may even on occasion be necessary. For instance, the person directly in charge of an area being inspected may need to inform certain other people, perhaps higher-level managers, that, because of the inspection, she cannot attend a previously scheduled meeting. An employee would not be required by the rule to cancel previous engagements without giving timely and sufficient reasons.

NOTE: THIS SRM, THE SUBJECT SECY PAPER AND THE VOTE SHEETS OF ALL COMMISSIONERS WILL BE MADE PUBLICLY AVAILABLE IN 10 WORKING DAYS FROM THE DATE OF THIS SRM.

-2-

- 2) Revise the first sentence of the Backfit Analysis as follows:

"The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule, and therefore, that a backfit analysis is not required for this proposed rule because these amendments do not involve any provisions which would impose backfits ~~as defined in 10 CFR 50.109(a)(1)~~. on nuclear power plant licensees.

The FRN should be modified, reviewed by the Regulatory Publication Branch, Adm. and forwarded for signatures and publication.

(EDO)

(SECY Suspense: 10/30/92)

cc: The Chairman
Commissioner Rogers
Commissioner Curtiss
Commissioner Remick
Commissioner de Planque
OGC

E-MAILED TO OFFICE DIRECTORS 10/16/92.