

September 25, 1992

MEMORANDUM FOR: James M. Taylor
Executive Director for Operations

FROM: Samuel J. Chilk, Secretary

SUBJECT: SECY-92-147 - PROPOSED AMENDMENTS TO 10 CFR
PARTS 31 AND 32 CONCERNING THE ACCESSIBLE AIR
GAP FOR GENERALLY-LICENSED DEVICES

The Commission (with all Commissioners agreeing) has approved publication in the Federal Register of the Notice of Proposed Rulemaking on amendments to 10 CFR Parts 31 and 32 subject to the comments provided below.

1. The proposed notice should be modified to provide additional context for the proposed changes. The first paragraph of the EDO's July 8, 1992 response to the Chairman is a starting point. The discussion should not require the reader to obtain copies of the SECY papers, but should instead provide an overview of the agency's program and reflect information presented in SECYs 89-289, 90-175, 91-241, and 91-175. For example, the background on page 3 should discuss the proposed rule to upgrade our oversight of all NRC general licensees (December 27, 1991; 56 FR 67011) and briefly describe the basis for that proposed rule. NRC is doing the minimum cost-effective improvements needed to respond to the problems identified with the general license program. The notice should emphasize the NRC is not considering specifically licensing over 97% of the general licensees (750 out of 35,000 is about 2%) and over 99% of the devices (3,000 out of 600,000 is about 0.5%). Further, it should be emphasized that a lower cost option to provide passive controls in lieu of specific licensing, where feasible, is also provided in this proposal. These two rulemakings provide the minimum level of response to the findings of the earlier studies and surveys.

SECY NOTE: THIS SRM, SECY-92-147, AND THE VOTE SHEETS OF THE CHAIRMAN, AND COMMISSIONERS ROGERS, CURTISS AND de PLANQUE WILL BE MADE PUBLICLY AVAILABLE 10 WORKING DAYS FROM THE DATE OF THIS SRM

2. The Notice of Proposed Rulemaking should reflect how the comments from the Agreement States were addressed. This can be drawn directly from the discussion in the SECY paper. The notice should also explain the basis for the staff's recommendation that these changes be considered matters of Division II compatibility.
3. On page 7 of the Environmental Assessment (Enclosure D), the last sentence in the second paragraph should be deleted since it is stated in more detail in the preceding paragraph.

Upon incorporation of the comments described above, the staff should forward the Federal Register notice to the Secretary for publication.

(EDO) (SECY Suspense: 11/13/92)

When submitting the final rule for Commission review and approval, the staff should specifically discuss the basis for whatever approach it recommends on the issue of whether general licensee workers should be treated as members of the public for purposes of 10 CFR 32.51(a)(2)(ii).

(EDO) (SECY Suspense: 6/18/93)

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