

November 14, 1991

MEMORANDUM FOR: James M. Taylor
Executive Director for Operations

FROM: Samuel J. Chilk, Secretary /S/

SUBJECT: SECY-91-327 - PROPOSED RULE REGARDING
CRIMINAL PENALTIES IN 10 CFR CHAPTER I

This is to advise you that the Commission (with all Commissioners agreeing) has approved publication of the proposed rule changes as noted below.

The staff should add to the draft statement of considerations a discussion of whether requirements for technical information in applications are substantive and therefore enforceable by means of criminal penalties. In its present form, the draft statement doesn't mention requirements for technical information, but the proposed rule is somewhat confusing on this point. It treats some requirements for technical information as substantive, §§ 50.34 and 52.45 for example, but others not, §§ 52.47 and 52.79 for example. Yet the SECY paper seems to treat as substantive all regulations which say "what information must be provided in a license application" (p. 3). The Commission is not necessarily advocating that all regulations which say what information must be in applications should be enforceable by means of criminal penalties, only that readers would be in a better position to comment if the Commission were clearer about what it is proposing.

In addition, publication of the proposed rule should be delayed until after Part 54 is promulgated, so that the proposed rule can contain a criminal penalties section for Part 54. Some sections of Part 54 will carry criminal penalties, and Part 54 should give clear notice of this fact.

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

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