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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

August 12, 1988

MEMORANDUM FOR: Victor Stello, Jr.
Executive Director for Operations

William C. Parler, General Counsel

FROM: Samuel J. Chilk, Secretary

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION/DISCUSSION
AND VOTE, 3:30 P.M., THURSDAY, AUGUST 4,
1988, COMMISSIONERS' CONFERENCE ROOM, ONE
WHITE FLINT NORTH, ROCKVILLE, MARYLAND
(OPEN TO PUBLIC ATTENDANCE)

I. SECY-88-164 ALLOCATION BETWEEN COMMISSION AND ILLINOIS
OF REGULATORY AUTHORITY CHICAGO WASTE MATERIALS

The Commission by a 4-0 vote, approved an order which resolved the uncertainty whether Illinois has jurisdiction over certain materials in Kress creek and other locations at or near the West Chicago Facility. The order held that the NRC retains jurisdiction over the Kress Creek materials and that the Commission has relinquished jurisdiction over the other materials in dispute. In addition the Commission approved an order denying the NRC staff's July 13, 1987 petition for review of ALAB-867.

(Subsequently, on August 5, 1988 the Secretary signed the order.)

II. SECY-88-184 - LICENSING BOARD DECISION ON SENIOR REACTOR
OPERATOR LICENSE FOR DAVID W..HELD

The Commission by a 4-0 vote approved an order which completed its consideration of January 11 and February 2, 1988 decisions of the Administrative Judge presiding over the request of Mr. David W. Held for a hearing on the denial of a senior reactor operator license. The order remands the case to the Administrative Judge for a proceeding on the specific issue of whether Mr. Held should have been found to have passed or failed the simulator examination. chairman Zech had additional views which were attached to the order.

(Subsequently, on August 8, 1988 the Secretary signed the order.)

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III. SECY-88-162 - REVISION OF THE ECCS RULE CONTAINED IN APPENDIX K AND SECTION 50.46 OF 10 CFR

The Commission by a 4-0 vote approved revisions of the ECCS Rule contained in Appendix K and Section 50.46 of 10 CFR Part 50, subject to the attached modifications.

The Federal Register notice should be modified as noted and returned for signature and publication.
(EDO) (SECY Suspense: 9/9/88)

cc: Chairman Zech
Commissioner Roberts
Commissioner Carr
Commissioner Rogers
GPA
ACRS
ACNW
ASLBP
ASLAP
DCS - P1-124
PDR - Advance copy

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errors are discovered in evaluation models, requests are made to revise plant technical specifications, or some other questions regarding the analyses are raised. The NRC believes that shared responsibility for evaluation models would not be in the best interest of the public health and safety and therefore has not implemented the suggestion of this commenter.

The NRC received two requests for an extension of the comment period to allow time for review of NUREG-1230, which describes the research supporting the proposed rule revision.

The NRC believes the comment period was sufficient since most of the research is not new and has been extensively reviewed in the past. Both commenters were contacted and told that comments received after the comment period would be considered if time permitted. Comments from both parties were received late and were indeed considered by the NRC.

6. Reporting Requirements. Some commenters viewed the proposed reporting procedures as new requirements needing consideration in the backfit analysis while others stated that they are a major relaxation and clarification of existing reporting requirements.

The NRC position is that the reporting requirements are new in the sense that they will now appear in the Code of Federal Regulations. However, in practice, these reporting requirements are indeed a clarification and relaxation over the current interpretation of the existing requirements and therefore the net effect of these requirements will be to reduce the frequency for reporting and reanalysis.

A number of commenters requested that only significant errors or changes in the non-conservative direction or only those that result in exceeding the 2200°F limit be required to be reported. In addition, a number of commenters suggested that the NRC require only annual reporting of significant errors or changes.

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ENCLOSURE E

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REGULATORY ANALYSIS

The Commission has prepared a regulatory analysis for this final regulation which examines the costs and benefits of the alternatives considered and is available for inspection and copying at the NRC Public Document Room, 1717 H Street NW, Washington, DC. Single copies of the analysis may be obtained from L. M. Shotkin, Office of Nuclear Regulatory Research, Washington, DC. 20555, telephone (301) 492-3530.

REGULATORY FLEXIBILITY CERTIFICATION

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule will not have a significant economic impact upon a substantial number of small entities. This rule affects only the licensing and operation of nuclear power plants.

The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the

Small Business Administration in 13 CFR Part 121. Since these companies are dominant in their service areas, this rule does not fall within the purview of the Act.

BACKFIT ANALYSIS

A backfit analysis is not required by 10 CFR 50.109 because the rule does not require applicants or licensees to make a change but only offers additional options and provides a clarification relaxation of a reporting requirement. Nonetheless, the factors in 10 CFR 50.109(c) have been analyzed for the entire rule.

1. Statement of the specific objectives that the backfit is designed to achieve.

The objective of the rule is to modify 10 CFR 50.46 and Appendix K to permit the use of realistic ECCS evaluation models. More realistic estimates the ECCS performance, based on the improved knowledge gained from recent research on ECCS