

IN RESPONSE, PLEASE
REFER TO: M070129

January 29, 2007

MEMORANDUM FOR: Luis A. Reyes
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary **/RA/**

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 10:50
A.M., MONDAY, JANUARY 29, 2007, COMMISSIONERS'
CONFERENCE ROOM, ONE WHITE FLINT NORTH,
ROCKVILLE, MARYLAND (OPEN TO PUBLIC ATTENDANCE)

I. SECY-06-0219 - Final Rulemaking to Revise 10 CFR 73.1, Design Basis Threat (DBT) Requirements

The Commission approved a final rule amending 10 CFR 73.1 to make generically applicable security requirements similar to those previously imposed by the Commission's April 29, 2003 DBT Orders, modified and enhanced based upon (1) experience and insights gained by the Commission during implementation of the orders and (2) extensive consideration of the 12 factors specified in the Energy Policy Act of 2005. The Commission has voted to approve the publication and implementation of this final rule subject to the changes and comments noted in the attachment.

Following incorporation of these changes, the Federal Register notice should be reviewed by the Rules Review and Directives Branch in the Office of Administration and forwarded to the Office of the Secretary for signature and publication.

(EDO)

(SECY Suspense:

3/2/07)

In addition, the Commission has approved the closure of the Petition for Rulemaking (PRM-73-12) from the Committee to Close the Gap.

Attachment:
As stated

cc: Chairman Klein
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Jaczko
Commissioner Lyons
OGC
CFO
OCA
OIG
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR

Changes and Comments on the Final Rule in SECY-06-0219

Changes to the Final Rule

1. Page 11, last paragraph, revise line 3 to read ‘ ... security purposes, **the Commission believes they are appropriate** ~~they are indeed robust~~. The DBTs’
2. Page 12, 2nd full paragraph, revise line 1 to read ‘ ... physical threats **from** ~~includes~~ the use of’
3. Page 12, 4th full paragraph, revise line 1 to read ‘ ... biochemical threats **both before and after the events of September 11, 2001**. The previous’
4. Page 13, revise line 1 from the top to read ‘ ... only **a few** ~~several~~ comments’
5. Page 13, last paragraph, revise line 3 to read ‘ ... specified publicly, **but the Commission believes they are appropriate** ~~but they are indeed substantial~~. Furthermore, the’
6. Page 14, paragraph 1, revise lines 3 and 4 to read ‘ ... the NRC staff **bases** ~~considers~~ the DBT ~~adversary~~ ~~tactics on those tactics~~ that have been observed’
7. Page 19, 1st full paragraph, revise line 8 to read ‘ ... entity, ~~and to get~~’
8. Page 25, 1st full paragraph, revise line 1 to read ‘ ... stated ~~because~~ that the’
9. Page 25, 3rd full paragraph, revise line 1 to read ‘ ... security of the nation’s’
10. Page 33, revise lines 10 and 11 from the top to read ‘ ... defend against **attacks by threats that it considers to be** “Enemies of the’
11. Page 35, 1st full paragraph, revise line 2 to read ‘ ... distinguish between **a threat posed by** an “enemy of the state” **excluded** ~~as defined by 10 CFR 50.13~~, and **threats covered by** the DBTs.’
12. Page 36, 1st full paragraph, revise line 10 to read ‘ ... be “beyond-DBT,” **regardless of whether they would or would not be deemed** an’
13. Page 39, 1st full paragraph, delete lines 3 through 11 (Unfortunately, language ... on this point.) Revise line 12 to read ‘~~However,~~ **The Commission**’
14. Page 41, 2nd full paragraph, revise line 9 to read ‘ ... from **certain** specific requirements **contained in the** ~~for protecting against the DBT~~. Ultimately,’
15. Page 43, 2nd full paragraph, revise line 6 to read ‘ ... the site-specific ~~DBT~~’
16. Page 48, 1st full paragraph, revise line 1 to read ‘ ... or the ACDs **and RG**, the Commission’

17. Page 50, 1st full paragraph, revise the last 2 lines to read ‘ ... of this rule, **and** analyzing the effects of a terrorist attack would be **incredibly speculative at best** ~~if not impossible~~. NEPA does not require such an **endless** inquiry.’
18. Page 50, footnote 1, revise line 4 to read ‘ ...2006). However, **the 9th Circuit’s** a determination’ Revise line 7 to read ‘ ... should ~~also~~ be considered as part of this rulemaking action.’
19. Page 51, revise line 4 from the top to read ‘ ... does **a request** ~~the mere desire~~ by a member’
20. Page 53, 1st full paragraph, revise line 3 to read ‘ ... (August 1976-). The study’
21. Page 62, 2nd full paragraph, revise lines 6 and 7 to read ‘ ... features. However, ~~the commenter should be informed that plant specific~~’ Revise lines 9 and 10 to read ‘ ... rulemakings **related to this issue** ~~as an effort to mitigate this concern~~. For’ Revise the last sentence in lines 12 through 16 to read ‘ ... Commission is ~~proposing to add new requirements to its regulations~~ **considering issuing a proposed rule that would require** requiring applicants to assess specific design features that would be incorporated into the final design to support overall security effectiveness of nuclear power plants. ; ~~[Proposed Rule, New Power Reactors/Security Assessment, 71 FR XXX (XXX-XX-XX)]~~’
22. Page 63, 2nd full paragraph, revise lines 3 and 4 to read ‘ ... believes that ~~individually, a large majority of~~ **individual** existing fire protection exemptions **have** had a small ~~or very small~~ impact on’
23. Page 65, 1st full paragraph, revise line 2 to read ‘ ... text **in 10 CFR 73.1.**’
24. Page 65, last 2 paragraphs, replace the “(A)” with “(a)”.
25. Page 66, 1st full paragraph, replace the “(A)” with “(a)”.
26. Pages 66, 70, 82, and 83 (with additional conforming changes as appropriate, including, for example, Response to Public Comments on page 40), in § 73.1(a)(1) and § 73.1(a)(2) definitions of radiological sabotage and theft/diversion of formula quantities of SNM, replace (i) with: "A determined violent external assault, attack by stealth, or deceptive actions, including diversionary actions, by an adversary force capable of operating in each of the following modes:
 - a single group attacking through one entry point,
 - multiple groups attacking through multiple entry points,
 - a combination of one or more groups and one or more individuals
 - attacking through multiple entry points, or
 - individuals attacking through separate entry points,with the following attributes, assistance and equipment:"