

February 17, 1999

MEMORANDUM TO: Karen D. Cyr
General Counsel

William D. Travers
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary /s/

SUBJECT: STAFF REQUIREMENTS - SECY-98-246 - STANDARD
REVIEW PLAN REGARDING FOREIGN OWNERSHIP,
CONTROL, OR DOMINATION OF APPLICANTS FOR
REACTOR LICENSES

The Commission has approved issuance of the draft Standard Review Plan (SRP) on Foreign Ownership, Control, and Domination for public comment and for interim use subject to incorporation of the changes indicated in the attachment. Section 3.2 of the draft SRP should be clarified to more clearly indicate, as provided in Section 4.2, that the Commission has not determined a specific threshold above which it would be conclusive that an applicant is controlled by foreign interests and that percentages of shares must be interpreted in light of all the information that bears on who in the corporate structure exercises control over what issues and what rights may be associated with certain types of shares.

(OGC) (SECY Suspense: 2/24/99)

The staff should combine this SRP with the SRP on Financial Qualifications and Decommissioning Funding Assurance described in SECY-98-153; however, the issuance of that final SRP should not be delayed to merge it with the SRP in this paper.

In addition, the staff should modify SECY-98-252 to make it consistent with this draft SRP prior to making it publicly available.

(EDO) (SECY Suspense: 2/24/99)

Separately, the staff should study and make recommendations to the Commission on ways in which the staff can conduct ongoing monitoring for those cases in which transactions may trigger a significant change in the nature or the extent of foreign ownership. The staff's evaluation should include estimates of the staff resources that would be associated with alternative approaches, such as partnerships with other government agencies.

(EDO/OGC) (SECY Suspense: 5/28/99)

Attachment:

As stated

cc: Chairman Jackson
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
EDO
CIO
CFO
OCA
OIG
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR
DCS

Attachment

Changes to the SRP in SECY-98-246

1. On page 1, paragraph 3, change the second sentence to read:

However, this SRP does not address all matters relating to the determination of whether issuance of a license to a person would be inimical to the common defense and security.
2. On page 3, paragraph (2) under § 50.80, line 2, after 'orders' replace 'of' with 'issued by.'
3. On page 5, paragraph 1, line 1, after 'that' insert 'in context with the other provisions of Section 104(d),'.
4. On page 5, paragraph 2, line 1, after '50%' insert a comma followed by 'or more,'.
5. On page 5, paragraph 3, line 1, replace 'up to 50%' with 'partially' and after 'entity' insert ', for example, partial ownership of 50% or greater,'.
6. On page 5, paragraph 4, line 1, after 'applicant' insert 'that is seeking to acquire a 100% interest in the facility' and add as the last sentence of paragraph 4: 'If the applicant is seeking to acquire less than a 100 % interest, further consideration is required.'
7. On page 6, in the second condition under section 4.2, insert the following sentence as the next to last sentence: "However, recognizing that shares change hands rapidly in the international equity markets, the staff usually does not evaluate power reactor licensees to determine the degree to which foreign entities or individuals own relatively small numbers of shares of the licensees' voting stock."

Changes to be incorporated in SECY-98-252

8. On page 3, footnote 3, sentence 3, should be modified to read: "This raises the issue of just how much of AmerGen's total ownership is foreign as a result of a percentage of PECO's stock being owned by foreign investors."
9. On page 3, footnote 3, the next to last sentence should be changed to read: "Until it receives any information to the contrary, the staff is working under the assumption that the Commission's previous decision that foreign ownership, per se, is not prohibited by the AEA when it does not lead to foreign control or domination still holds."
10. On page 3, footnote 3, add the following sentence at the end: "Recognizing that shares change hands rapidly in the international equity markets, the staff usually does not evaluate power reactor licensees to determine the degree to which foreign entities or individuals own relatively small numbers of shares of the licensees' voting stock."