



January 29, 1981

SECY-81-85

RULEMAKING ISSUE

For: The Commissioners (Rotation Vote)

From: William J. Dircks
Executive Director for Operations

Subject: REGULATORY FLEXIBILITY ACT OF 1980; CERTIFICATION FOR RECENT AMENDMENT TO 10 CFR PART 51 (NARRATIVE EXPLANATION OF TABLE S-3), SECY-80-448

Purpose: To obtain Commission approval for a Regulatory Flexibility Act Negative Certification

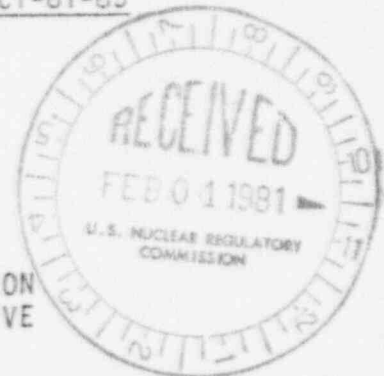
Discussion: At a December 11, 1980 affirmation session the Commission approved, with revision, a proposed explanatory narrative for Table S-3, Table of Uranium Fuel Cycle Environmental Data, and a notice of proposed rulemaking announcing the publication of the draft narrative and conditions for the Table's use. This approval was noted in the December 15, 1980 memorandum from the Secretary.

After final Commission action on SECY-80-448 in December, the Regulatory Flexibility Act (Pub. L. 96-354) became effective on January 1, 1981. The purpose of the Act is to preserve the competitive position of small entities. It requires each Federal agency to analyze the economic impact upon small entities of every proposed rule published after January 1, 1981, and to publish an Initial Regulatory Flexibility Analysis with the Notice of Proposed Rulemaking in the Federal Register. However, the requirement to prepare an analysis does not apply if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This certification, together with a succinct statement explaining the reasons for the certification, must be published along with the proposed rule.

The proposed rule approved in SECY-80-448 affects only the licensing and operation of nuclear power plants. These plants do not fall within the definition of "small entities" set forth in the Regulatory Flexibility Act (5 U.S.C. 601) or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121. Since these companies are dominant in their service areas, this proposed rule does not fall within the purview of the Act. Furthermore, the notice of proposed rulemaking contains a narrative explanation of Table S-3 and does not impose additional requirements.

Contact:
J. M. Felton, ADM
492-7211

8102200753



Enclosure A is a new page 67 for the FEDERAL REGISTER notice which was approved as part of SECY-80-448. The page has been revised to include the certification statement.

Recommendation: That the Commission:

Approve the certification statement on the enclosed page 67 that the proposed rule will not have a significant economic impact on a substantial number of small entities.

Note that the rule previously approved, and with the new page 67 added, will be published in the Federal Register.

Note that in accordance with 5 U.S.C. 605(b), the Chief Counsel, Office of Advocacy, Small Business Administration, will be informed of this certification and the reasons for it.

Note that until arrangements can be further discussed with the Small Business Administration, all rules, including minor rules which the EDO is authorized to approve, will be forwarded to the Commission for approval of the Regulatory Flexibility issue.



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Executive Director for Operations

Enclosure: As stated

Commissioners' comments should be provided directly to the Office of the Secretary by c.o.b. Wednesday, February 18, 1981.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLI Tuesday, February 10, 1981, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

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was concluded that when they are spread over many power reactors, they add an insignificant amount to the environmental impacts of an individual reactor. Thus, no specific value for socioeconomic considerations was placed in Table S-3.

In its effort to update Table S-3, the Commission is performing socioeconomic studies which are intended to provide more detailed data on the impacts actually experienced as a result of construction and operation of the facilities involved in each step of the nuclear fuel cycle. The studies may provide information that will permit an incremental assessment of socioeconomic impacts attributed to the fuel cycle activities.

Section IV - References

1. NUREG-0116, Section 4.11.4, p. 4-168.
2. Ibid, p. 4-170.
3. U.S. Nuclear Regulatory Commission, Policy Research Associates, "Socioeconomic Impacts: Nuclear Power Station Siting," NUREG-0150, June 1977.

REGULATORY FLEXIBILITY STATEMENT

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule affects only the licensing and operation of nuclear power plants that do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act 5 U.S.C. 601 or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121. Since these companies are dominant in their service areas, this proposed rule does not fall within the purview of the Act. Furthermore, the notice of proposed rulemaking contains a narrative explanation of Table S-3 and does not impose additional requirements.

Secs. 161(b) and (i), Pub. L. 83-703, 68 Stat. 948, 949 (42 U.S.C. 2201(b), (i));
 Sec. 170, Pub. L. 85-256, 71 Stat. 576, Pub. L. 94-197, 89 Stat. 1111 (42 U.S.C. 2210);
 Sec. 201, Pub. L. 93-438, as amended, 88 Stat. 1242, 89 Stat. 413 (42 U.S.C. 5841).

Dated at Washington, DC this day of 1981.

For the Nuclear Regulatory Commission

Samuel J. Chilk
 Secretary of the Commission