



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

RELEASED TO THE PDR
1/24/94
date initials

OFFICE OF THE
SECRETARY

January 7, 1994

MEMORANDUM TO: James M. Taylor
Executive Director for Operations

FROM: Samuel J. Chilk, Secretary *[Signature]*

SUBJECT: SECY-93-285 - PROPOSED RULEMAKING - NEW PART
76, "CERTIFICATION OF GASEOUS DIFFUSION
PLANTS" and
SECY-93-285A - SUPPLEMENTAL INFORMATION ON
PROPOSED PART 76, "CERTIFICATION OF GASEOUS
DIFFUSION PLANTS"

The staff should complete the actions described below prior to publication.

(EDO) (SECY Suspense: 2/25/94)

1. The Commission (with the Chairman and Commissioners Remick and de Planque agreeing) has approved the process for initial application and annual approval of the certificate of compliance as described in Section E of the Statement of Considerations. Commissioner Remick also believes that the NRC should issue a document indicating approval of the initial application which would be separate from the certificate but could then be referenced as a whole in subsequent annual applications. The Chairman believes that the process should be flexible enough to allow for an interim report for instances when issues are not fully resolved. Commissioner Rogers disagreed with the initial certification procedure. He believes that the initial certification will involve significant policy issues and that it should require a Commission determination.
2. The Commission (with the Chairman and Commissioners Remick and de Planque agreeing) has approved the proposed requirements for backfitting with the exception that the backfit

SECY NOTE: THIS SRM, SECY-93-285A, AND THE VOTE SHEETS OF ALL COMMISSIONERS WILL BE MADE PUBLICLY AVAILABLE 10 WORKING DAYS FROM THE DATE OF THIS SRM. SECY-93-285 WAS PREVIOUSLY RELEASED TO THE PUBLIC ON OCTOBER 26, 1993.

270010

[Handwritten signature]
1/10

criteria should go into effect when the final rule goes into effect. Commissioner Rogers would have preferred that the backfit provisions not be applied until after the first annual certification and that it be based on Section 1(b)(6) of Executive Order 12866 of September 30, 1993.

3. The Commission (with all Commissioners agreeing) has expressed concern over adoption of the 10 CFR Part 50, Appendix B quality assurance criteria because of the potential implementation problems. The staff should give further consideration to whether it is feasible to implement the quality assurance criteria in 10 CFR Part 50, Appendix B at the USEC facilities. The staff should consider the possibility of allowing the corporation to submit a QA program based on NQA 1.
4. The Commission (with all Commissioners agreeing) has disapproved the use of 10 mg soluble uranium either as a criterion for judging accident scenarios or for evaluating operations. The staff should reexamine this limit and consider the use of values in the 40 to 50 mg range.
5. The Commission (with all Commissioners agreeing) requests that the staff provide a regulatory analysis by means of a side-by-side comparison of the proposed regulations with the requirements set forth in DOE's transition document, and appropriate corresponding Part 70 (or other pertinent Parts) requirements. A justification and qualitative impact assessment of the requirements in the proposed Part 76 should be provided as part of this analysis. Copies of the analysis should be made available in the Public Document Rooms and referenced in the Federal Register notice accompanying the proposed rule. A statement in the Federal Register notice should be included which indicates that the Commission will entertain comments on costs of meeting proposed requirements as compared with safety improvement.
6. The Commission (with all Commissioners agreeing) endorses the approach for performance of a safety analysis provided that the term "existing systems intended to mitigate the release consequences" is understood to include not only hardware features, but procedures as well. The Supplementary Information should explicitly address this point.
7. The Commission (with all Commissioners agreeing) has disapproved the inclusion of the emergency preparedness practices, which are not required by Part 70 and which have been voluntarily put in place, as requirements. While the Corporation would be well advised to continue these practices, they should not become requirements and should be removed from the proposed rule.

8. The Commission (with all Commissioners agreeing) believes the proposed rule should include requirements that personnel be appropriately trained and qualified to perform their nuclear safety-related functions. Certain features of 10 CFR Section 50.120 could serve as reference material for the staff as it drafts these requirements. In addition, Section 76.35, "Contents of Applications," should include a requirement that applications contain information on training programs that will be provided to personnel to enable them to perform the functions of their jobs, and information on the positions for which such training will be provided.
9. In Section 26.2, "Scope," the references to "individual, partnership" or "other entity" are superfluous and should be removed. Section 26.2 should contain the limitation in Section 76.60(f).
10. In Section 76.4, "Definitions," the words "or certificate" should be added to the existing definition of "certificate of compliance", just after the words "certificate of compliance". Also, the word "work" is not used in the proposed rule and should be removed. The terms "worker" and "working area" are used and the staff may consider adding these definitions to this section.
11. Section 76.89(b)(1) appears to require two detectors in every spot in gaseous diffusion plants. Line 4 should be modified to read "Coverage of all areas in which special nuclear material is handled, used or stored must be provided by two detectors."
12. For Sections 76.35 (k) and (l), the Statement of Consideration should further expand and clarify NRC's intent in the Decontamination/Decommissioning area. See the changes provided in the attachment.
13. In Section 76.45, "Application for amendment of certificate," as well as in the Statement of Consideration, the staff should clarify that it is the Corporation that would apply for an amendment of its application; NRC would then amend the Corporation's certificate. The use of the term "amendment" should be similarly clarified where appropriate. Also, Section 76.68, "Plant changes," and the Statement of Consideration, should be clarified to indicate that when a request for changes involves an Unreviewed Safety Question, the staff's intent is that Section 76.45, "Application for amendment of certificate," is applicable.

Commissioners Rogers and Remick will have additional views to be published with the Federal Register Notice.

The Federal Register Notice should be revised as noted above and returned for signature and publication.

(EDO)

(Secy suspense: 2/25/94)

Attachment:

As stated

cc: The Chairman
Commissioner Rogers
Commissioner Remick
Commissioner de Planque
OGC
OCA
OIG
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)