



OFFICE OF THE
SECRETARY

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

March 29, 1993

Bateman
cc: Taylor
Swiecz
Blosh
"AE 39-2"
"PDR"

MEMORANDUM FOR: The Chairman
Commissioner Rogers
Commissioner Curtiss
Commissioner Remick
Commissioner de Planque

FROM: Samuel J. Chilk, Secretary *SC*

SUBJECT: STAFF REQUIREMENTS MEMORANDUM

Attached is the staff requirements memorandum on SECY-92-430. In accordance with the Commission's decision, the SRM will be issued to the staff by COB Thursday, April 1, 1993, unless I hear otherwise.

The attached SRM and the subject SECY paper are considered to be "final Commission decisions" and as such will be released to the public 10 days after the date of the final SRM.

All Commissioners have agreed to release their vote sheets. Their votes will accompany the paper and SRM.

Attachment:
As stated

cc: EDO
OGC

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

OFFICE OF THE
SECRETARY

MEMORANDUM FOR: James M. Taylor
Executive Director for Operations

FROM: Samuel J. Chilk, Secretary

SUBJECT: SECY-92-430 - PROPOSED AMENDMENTS TO 10 CFR
PART 55 ON RENEWAL OF LICENSES AND
REQUALIFICATION REQUIREMENTS FOR LICENSED
OPERATORS

The Commission (with all Commissioners agreeing) has approved the publication of the proposed amendments for public comment, subject to incorporation of the following changes.

The Commission agrees with the staff that although NRC's role in administering requalification examinations has provided an important incentive for licensees to improve operator training programs to the higher levels of effectiveness seen today, it is now appropriate to transfer some of the responsibility to administer the exams back to the licensees.

The Commission retains the option of administering requalification examinations as it deems necessary, using the flexible authority in 10 CFR Part 55.59(a)(2)(iii), and it is appropriate to state so in the amendment documents. However, the Commission does not believe it is necessary that the amendment to the rule or associated documents indicate that the Commission intends to administer exams periodically. The authority of the staff to administer such exams at its discretion is sufficiently clear without the need for further reference. The Commission fully expects the staff to take advantage of the authority provided by the regulations to administer exams as needed, and the regulations, as written, are sufficient to allow this.

SECY NOTE: THIS SRM, SECY-92-430, AND THE VOTE SHEETS OF ALL COMMISSIONERS WILL BE MADE PUBLICLY AVAILABLE 10 WORKING DAYS FROM THE DATE OF THIS SRM

Similarly, the Commission has concerns regarding the proposed amendment to 55.59, which would require that facility licensees submit to the NRC each annual operating test or comprehensive written examination at least thirty days prior to conducting such test or exam. The Commission encourages the staff to consider arranging for test submittal on a case-by-case basis, consistent with its inspection program needs. The staff should solicit public comments on this provisions and address them as part of its preparation of the final rule.

cc: The Chairman
Commissioner Rogers
Commissioner Curtiss
Commissioner Remick
Commissioner de Planque
OGC
OIG
Office Directors, Regions, ACRS, ACNW (via E-Mail)
OP, SDBU/CR, ASLBP (via FAX)



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

"AE39-2"
"PDR"

OFFICE OF THE
SECRETARY

April 27, 1993

MEMORANDUM FOR: James M. Taylor
Executive Director for Operations

FROM: Samuel J. Chilk, Secretary

SUBJECT: SECY-92-430 - PROPOSED AMENDMENTS TO 10 CFR
PART 55 ON RENEWAL OF LICENSES AND
REQUALIFICATION REQUIREMENTS FOR LICENSED
OPERATORS

The Commission (with all Commissioners agreeing) has approved the publication of the proposed amendments for public comment, subject to incorporation of the following changes.

The Commission agrees with the staff that although NRC's role in administering requalification examinations has provided an important incentive for licensees to improve operator training programs to the higher levels of effectiveness seen today, it is now appropriate to transfer some of the responsibility to administer the exams back to the licensees.

The regulations, as written, allow the Commission the option of administering requalification examinations as it deems necessary, using the flexible authority in 10 CFR 55.59(a)(2)(iii), and it is appropriate to state so in the amendment documents. However, the Commission does not believe that the staff should, as a matter of course, administer exams periodically. The Commission (with the Chairman and Commissioners Remick and de Planque agreeing) fully expects the staff to administer exams for cause, and as otherwise approved by the Commission. The proposed amendment and associated documents should be modified as shown on the attached pages and elsewhere as needed to be consistent with this approach.

Commissioners Rogers and Curtiss believe that the staff should be allowed the discretion to administer exams as they feel necessary. The separate views of Commissioners Rogers and Curtiss are attached as well as the additional views of the Chairman and Commissioners Remick and de Planque.

SECY NOTE: THIS SRM, SECY-92-430, AND THE VOTE SHEETS OF ALL COMMISSIONERS WILL BE MADE PUBLICLY AVAILABLE 10 WORKING DAYS FROM THE DATE OF THIS SRM

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The Commission has concerns regarding the proposed amendment to 55.59, which would require that facility licensees submit to the NRC each annual operating test or comprehensive written examination at least thirty days prior to conducting such test or exam. The Commission encourages the staff to consider arranging for test submittal on a case-by-case basis, consistent with its inspection program needs. The staff should solicit public comments on this provision from both the aspect of drain on NRC resources and of burden on licensees and address these concerns as part of its preparation of the final rule.

The FRN should be revised as noted above, the Commissioners views should be added to the FRN, it should be reviewed by the Regulatory Publication Branch, Adm., and returned for signature and publication.

(EDO)

(SECY Suspense: 5/15/93)

Attachments:
As stated

cc: The Chairman
Commissioner Rogers
Commissioner Curtiss
Commissioner Remick
Commissioner de Planque
OGC
OIG
Office: Directors, Regions, ACRS, ACNW (via E-Mail)
OP, SDBU/CR, ASLBP (via FAX)

Commissioner Rogers' separate views on SECY-92-430.

Commissioner Rogers believes that the staff should be allowed the discretion to administer exams as they feel necessary, i.e., other than for cause, without receiving prior Commission approval. Reasons for allowing the staff to administer discretionary exams include:

1. Providing an additional incentive to licensees to maintain the quality of their operator training programs.
2. Providing a benchmark with good performing plants by which to judge the adequacy of the licensees' operator training programs.
3. Providing a basis to determine whether or not licensee examiner standards need to be revised.
4. Providing an independent check of the quality of the licensees' operator training programs.
5. Providing the NRC staff the opportunity to maintain its examination expertise.
6. Ensuring that the latest, state-of-the-art testing and assessment techniques are being used.

Commissioner Curtiss' separate views on SECY-92-430.

The staff has proposed that they be allowed to administer requalification examinations in two situations: (i) where cause exists for administering such examinations; and (ii) on a periodic basis, at a specified frequency of once every six years at each facility. There is no disagreement within the Commission over allowing the staff to administer "for cause" examinations. The dispute arises over whether the staff should be afforded the discretion to administer examinations in situations other than where "cause" exists, without first coming to the Commission for advance approval. The staff has recommended that they be allowed the flexibility to administer such examinations at their discretion and, with one minor exception, I agree with the staff's recommendation. [I do not believe it wise or essential to specify a set periodicity for such examinations of once every six years, and, on this point, I concur in the majority view].

The majority, as I understand it, would limit the staff to administering examinations solely "for cause", and would not allow the staff to administer examinations in any other situation absent formal approval by the Commission (*i.e.*, where, in the staff's discretion, the staff deems it appropriate to do so). There are compelling reasons, in my judgment, for allowing the staff the flexibility to administer such "discretionary" examinations on its own accord. In this regard, Commissioner Rogers has set forth the reasons for allowing the staff to administer such examinations, and I concur in the reasons that he has articulated so persuasively.

Given the significant changes in the agency's operator requalification program that the staff has proposed in SECY-92-430 (and in which I generally concur), I would have preferred a more cautious transition, wherein the effectiveness of the new regulatory approach could be confirmed through such discretionary examinations, before placing reliance on "for cause" examinations and an unproven inspection regime. This is particularly important given the continuing identification of weaknesses in licensee training programs uncovered by our current examination process. Accordingly, I believe that it would be a prudent step to allow the staff this flexibility. In my judgment, the majority's insistence upon requiring the staff to come to the Commission for advance approval in every such instance is, as a practical matter, likely to discourage the staff from administering such examinations where they may indeed be warranted.

For the foregoing reasons, I disagree with the decision of the majority to foreclose the staff from administering examinations in such circumstances, absent formal approval by the Commission. I also associate myself with Commissioner Rogers' comments.

Additional comments of the Chairman, and Commissioners Remick and de Planque on SECY-92-430.

The Chairman and Commissioners Remick and de Planque believe that all of the objectives listed by Commissioner Rogers and endorsed by Commissioner Curtiss can be met, and are being met, through various alternatives to administering requalification tests and exams periodically. For example, the staff will continue to administer an estimated 700-800 initial operator license examinations per year; it will conduct examinations for cause using the flexible authority already provided by the regulations, and as otherwise approved by the Commission; it will observe the administration of examinations by the licensees as part of both the NRC's inspection program activities and INPO's and the National Academy of Nuclear Training's accreditation and assessment activities, permitted by the NRC/INPO MOU; and the staff will have the benefit of continuous observation by Resident Inspectors.

These existing alternatives provide considerable opportunity for the staff to assess the effectiveness of licensee training programs. Indeed, the proposed Statement of Considerations says that the agency "expects to find and correct programmatic weaknesses more rapidly and improve operational safety by redirecting the examiner resources to inspect programs," (p. 8, our emphasis.) If the staff identifies weaknesses in licensee training programs, the staff may then exercise the flexible authority of 10 CFR 55.59 (a)(2)(iii) to administer requalification tests and exams for cause.

Staff expertise needed to administer requalification tests and examinations can also be maintained by participation in training courses, just as staff expertise such as that needed by IIT members is maintained. Innovative concepts like administering examinations and tests to instructors and appropriate operator licensing personnel on the simulators at the Technical Training Center is another way of maintaining this kind of staff expertise.

If the staff finds that with experience there is, in fact, a basis for administering periodic exams or any other alternatives, they are at liberty to provide the rationale and plan for Commission consideration. However, the information the staff has presented does not convince us of any necessity for administering periodic exams.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 55

RIN-AE 39

Operators' Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to delete the requirement that each licensed operator ^{at power, test and research reactors} pass a comprehensive requalification written examination and an operating test conducted by the NRC during the term of the operator's 6-year license as a prerequisite for license renewal. The proposed amendment will require facility licensees to submit copies of each annual operating test or comprehensive written examination used for operator requalification for review by the Commission at least 30 days prior to conducting the examination or the test. In addition, the proposed rule will amend the "Scope" provisions of the regulations pertaining to operators' licenses to include facility licensees.

DATES: The comment period expires _____. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

to giving the test or examination. The NRC would review these examinations on an audit basis for conformance with 10 CFR 55.59(a)(2)(i&ii). The NRC would also review other information already available to the staff to determine the scope of an on-site inspection of the facility requalification program. ~~The NRC also intends to conduct selected portions of requalification examinations at each facility at least every 6 years.~~ The NRC would continue to expect each facility to meet all of the conditions required for conducting a requalification program in accordance with 10 CFR 55.59(c).

Licensed operators would not have to take any additional actions. Each operator would continue to meet all the conditions of his or her license described in 10 CFR 55.53, which includes passing the facility-conducted requalification examinations for license renewal. Each licensed operator would be expected to continue to meet the requirements of the facility requalification training program. However, the licensed operator would no longer be required to pass a requalification examination conducted by the NRC during the term of his or her license as a condition of license renewal.

The "Scope" of Part 55, § 55.2, will be revised to include facility licensees. This is an addition to the regulation. It eliminates currently existing ambiguities between the regulations of Parts 50 and 55. Part 50, in § 50.54(i) through (m), already imposes Part 55 requirements on facility licensees, and Part 55 already specifies requirements for facility licensees.

The proposed amendments would meet the requirements of Section 306 of the NHPA without the requirement that each licensed individual pass a requalification examination conducted by the NRC during the 6-year term of the individual's license. The requirements of the NHPA would be met as follows:

- 1) the regulations would continue to require facilities to have

requalification programs and conduct requalification examinations; 2) the NRC would provide oversight (i.e., administration) for these programs and examinations through inspections; and 3) § 55.59(a)(2)(iii) provides that the NRC may conduct requalification examinations in lieu of accepting the facility licensee's certification that a licensed individual has passed the facility requalification examination. The NRC will use this option if warranted after an on-site inspection of the facility's requalification program ~~and also to periodically conduct selected portions of requalification examinations.~~ The proposed amendments would not affect the regulatory or other appropriate guidance required by Section 306 of the NWPA and established in § 55.59(a)(2)(iii) for the NRC to conduct requalification examinations in lieu of an examination given by the facility.

Invitation To Comment

Comments concerning the scope, content, and implementation of the proposed amendments are encouraged. Comments on the applicability of the proposed amendments to research and test reactor facilities are especially solicited, as are suggestions for alternatives to those rulemaking methods described in this notice.

Finding of No Significant Environmental Impact: Availability

The NRC has determined that the proposed amendments, if adopted, are the type of action described in categorical exclusion 10 CFR 51.22(c)(1).

§ 55.59 Requalification

* * * * *

(c) *Requalification program requirements.* A facility licensee shall have a requalification program reviewed and approved by the Commission and shall submit a copy of each comprehensive requalification written examination or annual operating test to the ^{appropriate Regional Administrator} ~~Commission~~ at least 30 days prior to conducting such examination or test. The requalification program must meet the requirements of paragraphs (c)(1) through (7) of this section. In lieu of paragraphs (c)(2), (3), and (4) of this section, the Commission may approve a program developed by using a systems approach to training. ✓

* * * * *

Dated at Rockville, Maryland, this ____ day of _____, 1992.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,
Secretary of the Commission.