



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

Files

August 3, 1979

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OFFICE OF THE
SECRETARY

MEMORANDUM FOR: Lee V. Gossick, Executive
Director for Operations
Carlton Kammerer, Director,
Congressional Affairs
Joseph J. Fouchard, Director,
Public Affairs

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

SUBJECT: DISCUSSION OF SECY-79-187/A/B - UPGRADE RULE,
2:40 P.M., TUESDAY, JULY 24, 1979, COMMISSIONERS'
CONFERENCE ROOM, D.C. OFFICE (OPEN TO PUBLIC ATTENDANCE)

The Commission, by a vote of 5-0, approved for publication in effective form in the Federal Register the Safeguards Upgrade Rule set forth in Enclosure "A" to SECY-79-187, as conditioned by the following:

1. staff should revise § 73.20(a) and (b) as proposed in SECY-79-187A, as amended by the changes to § 73.20(b)(1) and (2) proposed in SECY-79-187B. In addition, the staff should revise § 73.55 as proposed in SECY-79-187A.
2. the Executive Legal Director should revise the footnote to 73.55(a), found in the Statement of Considerations in SECY-79-187A, and forward this to the Commission for review.
(ELD)
(Subsequently, this revision was forwarded to the Commission on August 2, 1979.)
3. Although the Safeguards Upgrade Rule as published will not apply to non-power reactors, the Statement of Considerations should state that it is the intent of the Commission to bring non-power reactors (NPR) under an improved safeguards system in the near future.¹ In this regard, the staff should proceed with the studies outlined in SECY-79-187B and others necessary to determine safeguards requirements for NPR. Staff should provide for the Commission an interim status report on these efforts and the reactors which fall within Category I. This status report should include a review, for each NPR, of the current fuel amounts and safeguards measures in force, as well as any plans of the licensee to reduce fuel possession below Category I limits, or comply with the Upgrade Rule, and should be forwarded to the Commission within 120 days.
(NRR) (SECY Suspense: November 30, 1979)

¹ Although in agreement with the rule, Commissioner Gilinsky would have preferred that any exemption for non-power reactors be considered on a case by case basis.

4. Commissioner Ahearne requested that he be provided a briefing on the subject of why the threats to fuel cycle facilities and reactors are different.
(EDO)

In taking this action, the Commission noted that:

1. the value/impact analysis previously placed in the Public Document Room has been reviewed and determined to still be valid for the revised amendments except for the Report Justification Analysis which has been revised;
2. a public announcement will be issued when the proposed amendments are filed with the Office of the Federal Register;
(OPA)
3. the appropriate Congressional Committees will be notified of this action;
(OCA)
4. the Environmental Impact Appraisal, supporting a Negative Declaration as prepared for the original proposed rule and placed in the Public Document Room, is still applicable.

cc: Chairman Hendrie
Commissioner Gilinsky
Commissioner Kennedy
Commissioner Bradford
Commissioner Ahearne
General Counsel
Acting Director, Policy Evaluation



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

August 12, 1981

A-6

OFFICE OF THE
SECRETARY

MEMORANDUM FOR: William J. Dircks, Executive Director
for Operations
Leonard Bickwit, Jr., General Counsel
Carlton Kammerer, Director, OCA
Joseph J. Fouchard, Director, OPA

FROM: John L. Hoyle, Acting Secretary

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION
81-29, 3:05 P.M., THURSDAY, AUGUST 6,
1981, COMMISSIONERS' CONFERENCE ROOM,
DC OFFICE (OPEN TO PUBLIC ATTENDANCE)

I. SECY-81-376 - Physical Security Requirements for Nonpower
Reactor Licensees Possessing a Formula Quantity of SSNM
(Rulemaking Issue)

The Commission, by a vote of 3-2* (Chairman Palladino and Commissioners Ahearne and Roberts approving), approved for publication in the Federal Register for comment amendments to Parts 50, 70 and 73 as set forth in Alternative 3. The attached separate views of Commissioner Bradford will be included with the proposed rule. Commissioner Gilinsky agrees with these views. The Commission also approved Commissioner Gilinsky's request to publish on his own initiative Alternative 2 for comment, with a cautionary note to the public indicating that Alternative 2 and comments thereon will not form the basis for a final rule.

(EDO/OGC) (SECY Suspense: 9/1/81)

The Commission requested that:

- (1) The appropriate Congressional Committees be notified of the Commission action. (OCA/NMSS) (SECY Suspense 9/1/81)
- (2) A formal request for OMB review and clearance of the proposed information collection requirements (Enclosure E of the subject paper) be initiated. (NMSS) (SECY Suspense: 9/1/81)

* Section 201 of the Energy Reorganization Act, 42 U.S.C. §5841, provides that action of the Commission shall be determined by a "majority vote of the members present." Commissioner Gilinsky was not present when this item was affirmed, but had previously indicated his approval of Alternative 2. Had Commissioner Gilinsky been present, he would have affirmed his prior vote. Accordingly, the formal vote of the Commission was 3-1 in favor of Alternative 3.

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- (3) A public announcement be prepared and issued when the amendments are filed with the Office of the Federal Register.

(OPA/NMSS) (SECY Suspense 9/1/81)

II. SECY-81-422 - TMI Related Requirements for Operating Reactors (Adjudicatory Issue)

The Commission, by a vote of 3-1 (Commissioner Bradford approving; Commissioner Gilinsky not present and not participating) disapproved publication of a proposed rule to codify NUREG-0737 operating reactor requirements and schedules. (NRR)

III. SECY-81-435 - Director's Denial of 2.206 Relief (In the Matter of Long Island Lighting Company (Adjudicatory Issue)

The Commission, by a vote of 3-2** (Commissioners Gilinsky and Bradford disapproving), decided not to take review of the Director's Denial. (OGC)

cc: Chairman Palladino
 Commissioner Gilinsky
 Commissioner Bradford
 Commissioner Ahearne
 Commissioner Roberts
 Commission Staff Offices
 Public Document Room

**Section 201 of the Energy Reorganization Act, 42 U.S.C. §5841 provides that action of the Commission shall be determined by a "majority vote of the members present." Commissioner Gilinsky was not present when this item was affirmed but had previously indicated his disapproval. Had Commissioner Gilinsky been present, he would have affirmed his prior vote. Accordingly, the formal vote of the Commission was 3-1 not to take review.

SEPARATE VIEW OF COMMISSIONER BRADFORD FOR INFORMATION IN THE
PROPOSED RULE ON PHYSICAL SECURITY REQUIREMENTS
FOR NON-POWER REACTOR LICENSEES

I am concerned with both the substance and the procedure of this Commission action. Substantively, it is a serious error to contemplate a long-term arrangement under which highly enriched uranium at university reactors might be afforded less protection than the same material elsewhere. There is nothing about a university environment that is inherently any safer than the rest of the nation as a location for material that can be directly used in the making of nuclear bombs. This material has that extraordinary potential, and the Commission should be seeking comment on a rule that protects it uniformly, wherever it might be stolen.

As a procedural matter, this is the first case that I can recall in which the Commission has declined to seek comment on positions encompassing the full range of views among the Commissioners. Despite staff studies suggesting levels up to 3,000 rem per hour, the only number being proposed for comment is 100 rem per hour. While the public is, of course, still free to urge a significantly higher level of protection than that proposed here, the non-power reactor operators are not given notice that this rule-making might end in such a result. It would have been far better to invite comment on a range of possible exposure standards and protection formats, indicating if necessary a Commission preference as of now for the lower end of the range. This would have avoided the suggestion that a particular type of reactor owner is being unduly favored and would have preserved the Commission's valuable past practice of obtaining comment on the full range of views that exists among the Commissioners in order to get comment from the affected groups on the courses of action that we might follow.

LAW OFFICES
GREENWALD AND GREENWALD
A PROFESSIONAL CORPORATION

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August 10, 1982

Director, Office of Administration
United States Nuclear
Regulatory Commission
Washington, D. C. 20555

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-82-381

Rec'd 8-19-82

Re: Freedom of Information Act Request

Gentlepersons:

Under the provisions of the Freedom of Information Act, 5 U.S.C., Section 552 et seq., we are requesting access to and copying of each of the following records:

1. All reports of safeguards/security inspections of the UCLA Nuclear Energy Laboratory, 1959 through the present;
2. All correspondence, memos, or other written communications between NRC and UCLA, from 1970 to the present, regarding:
 - (a) The need to reduce SNM inventories;
 - (b) The applicability of 10 CFR 73.60 or 73.67 to the UCLA reactor facility;
 - (c) The irradiation level of irradiated fuel at the facility, particularly with regards compliance with the 100 Rem per hour at three feet standard of 10 CFR 73.67 and .60;
 - (d) Determinations whether UCLA has a formula quantity of SNM at the UCLA reactor; and
 - (e) Expressions of commitment by UCLA, and requests for such commitment by NRC, and related communications as to procedures for maintaining SNM at the UCLA reactor facility below the quantity or above the radiation level threshold for 10 73.67 or .60.

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3. SECY 79-187, as described at pages 1 and 2 of SECY 81-376 of June 12, 1981;
4. Documents referred to on page 1 of SECY 81-376 where it states: "On July 24, 1979, the Commission approved a recommendation that nonpower reactor licensees be deferred from implementing . . ." through the sentence ending: ". . . for these facilities" on top of page 2;
5. Background documents prepared regarding SECY 79-187, SECY 81-376, and the recommendations approved July 24, 1979, referred to above. (We do not need the Los Alamos study referenced in SECY 81-376.)
6. At page 2 of Enclosure C of SECY 81-376, certain information about the UCLA Argonaut Reactor is summarized. We request all documents detailing said information, particularly with regard to irradiation level of core during normal and off-normal situations.
7. All documents detailing applicability of 10CFR 73.67 and .60 to research reactors;
8. All documents indicating whether research reactors must have security plans designed to minimize potential for radiological sabotage;
9. All documents providing the factual basis for the assertions in paragraphs 5 and 7 by James R. Miller of NRR in his April 8, 1981 Affidavit in the UCLA Reactor Relicensing case, attached to Staff Motion for Summary Disposition of April 13, 1981;
10. All documents relative to site visit and review described in January 12, 1981 letter from NRC's J. Miller to UCLA's Wegst, regarding applicable regulations;
11. NRC Circular 76-03;
12. All documents providing the factual basis for the assertions made by Donald M. Carlson of NMSS in the bottom paragraph on page 4 and the first sentence of Footnote 1 of his April 7, 1981 Affidavit, attached to the Staff Motion for Summary Disposition in the UCLA Reactor Relicensing case, Motion dated April 13, 1981;

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13. Copies of studies performed for the NRC Staff regarding sabotage potential of non-power reactors, as mentioned in sentence 2 of Footnote 1 of Donald Carlson's Affidavit;

14. All documents that demonstrate that research reactors are not required to have a physical security plan that provides measures to minimize potential for radiological sabotage;

15. Documents not provided in response to the above items that deal with physical security requirements for non-power reactors;

16. Copy of the transcript of the Meeting at Region III Office mentioned in the NRC Memo of October 19, 1979 to All Non-Power Reactor Licensees. (That meeting was said to discuss the impact of the proposed upgrade rule on certain non-power reactor licensees.)

17. Letters of October 38 and December 12, 1974 from UCLA to NRC regarding reductions in SNM inventory, as referred to in letters of November 18, 1974 and January 8, 1975 by George Lear, Operating Reactors Branch, NRC, to Hicks of UCLA;

18. J. J. Koelling, "Lower Enrichment Credit," Non-power Reactor Licensee Meeting, Ann Arbor, Michigan (September 1978); plus a listing of other papers delivered at that meeting. "Special Nuclear Material Self-Protection Criteria Investigation," by J. J. Koelling and E. W. Barts, of the Los Alamos Scientific Lab, dated December 3, 1980; reference 8 by Koelling on page 40, sub-parts 5 plus thereof;

19. All written communications between NRC and UCLA as to need to transfer irradiated fuel in storage in order to comply with the Upgrade Rule to 10 CFR 73, between 1977 and the date of shipment in Summer of 1980.

We request waiver of all fees for the above-requested documents. Our client is a public interest organization of extremely limited financial resources, admitted by the NRC's

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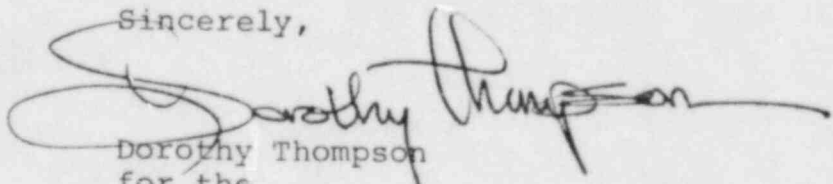
Atomic Safety and Licensing Board as an intervenor in the UCLA Reactor Relicensing Proceeding. The requested information is necessary for a full presentation of the applicable facts to the Board, so that it may make its decision on an adequate evidentiary basis. To limit our client's access to these documents by charging for them would be to reduce the Board's access to necessary facts for a proper decision. Further, the Board has directed our client to submit a Brief on the legal question of the applicability of 10 CFR 73.67 and .60 to the UCLA Reactor and of requirements for protection against sabotage. The above-requested documents are necessary for our client to fully comply with that Board directive.

If documents contain classified or proprietary information, we request that versions be released with that information excised, but that unprotected information be released intact.

Please call us prior to sending any information, so that we may ascertain what is available and what you propose to send, as well as a determination on the fee waiver. Do not hesitate to contact us if you need any assistance in clarifying any of these requests.

Your earliest attention to this request would be greatly appreciated.

Sincerely,



Dorothy Thompson
for the
Nuclear Law Center

DT:jp
cc: Dan Hirsch