



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

DEC 27 1990

MEMORANDUM FOR: Eric S. Beckjord, Director
Office of Nuclear Regulatory Research

FROM: Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards

SUBJECT: REQUEST FOR RULEMAKING - CONFORMING AMENDMENTS TO TITLE 10
CODE OF FEDERAL REGULATIONS FOR URANIUM ENRICHMENT REGULATION

On November 15, 1990, the President signed the Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990, which amended the Atomic Energy Act (the Act) with respect to regulating uranium enrichment. The principal amendment changed the definition of a production facility to exclude uranium enrichment; thus, licensing of uranium enrichment plants will be performed pursuant to 10 CFR Parts 40 and 70, rather than 10 CFR Part 50. A new Section 193 of the Act contains revised requirements for environmental review, adjudicatory hearings, inspection and operation, insurance and decommissioning, and indemnification. A number of administrative and conforming changes need to be made to Title 10 to implement the amendments to the Act. The Parts that clearly need changes include 2, 40, 50, 51, 70, 140, and 170. After further analysis, other Parts that need changes may be identified.

In connection with the prospective application by Louisiana Energy Services (LES) for a license to construct and operate a gas centrifuge uranium enrichment plant, a combined notice and order, to be approved by the Commission, is being prepared that will describe how the proceeding on the application will be conducted in accordance with the recent amendments to the Act. Included in the notice and order will be a statement that changes to Title 10 are being expeditiously made to conform the regulations to the amendments to the Act as construed in the notice and order. The Office of the General Counsel has recommended that the conforming procedural changes be published for comment at the same time as the Commission notice and order is published.

Therefore, I request prompt initiation of action to prepare the necessary rule changes to implement the amendments. While we intend to conduct our review of the LES application within the terms of the notice and order, it would be useful to have the rule changes in place no later than the date the Atomic Safety and Licensing Board begins to consider its decision on the application, in order to forestall any criticism that the issuance of the license did not comply with codified regulations. This date is estimated to be July 1992. The cognizant

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individual in the Office of Nuclear Material Safety and Safeguards for the task is Peter Loysen. The task should also be coordinated with Robert Fonner of OGC, for he is analyzing the legal implications of the amendments to the Act and drafting the Commission notice and order.

(Signed) Robert M. Bernero

Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards

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(PL/BECKJORD LETTER)

*see previous concurrence

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