



OFFICE OF THE
COMMISSIONER

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

February 1, 1991

Taylor
Sniezek
Thompson
Blaha
Murley
Jordan
Bernero
Scinto
EDO-6068

cc
JA
JR
WJ

MEMORANDUM FOR: Samuel J. Chilk, Secretary

FROM: Forrest M. Remick

SUBJECT: COMSECY-91-001, RESOLUTION OF THE OFFICE OF THE
INSPECTOR GENERAL REPORT RECOMMENDATIONS
CONCERNING 10 CFR PART 21

I support Commissioner Curtiss' suggested alternative of modifying Part 21 to require that an organization report to the NRC that it has begun evaluating a potential defect. I do not favor incorporating a specific time limit in Part 21. Any such limit is necessarily arbitrary to some degree: It is too short in many cases, and thereby conducive to over-reporting; it is too long in others, and thereby conducive to tardy evaluations. Part 21 presently sets forth a "rule of reason" which permits the needs of the evaluation to take precedence over perhaps comforting, but nonetheless misleading, numbers. I do not read Section 206 of the Energy reorganization Act of 1974 to preclude the agency's following a rule of reason. Moreover, a rule of reason is fully enforceable, even though the 60 days suggested in the statement of consideration for the revised Part 21 is not enforceable in every case.¹

However, Commissioner Curtiss' suggested alternative serves to preserve the benefits of a rule of reason, at the same time that it helps to assure that an organization will act promptly in evaluating a potential defect.

cc: Chairman Carr
Commissioner Rogers
Commissioner Curtiss
EDO
OGC
OIG

¹A 60-day limit would be enforceable in any given case in which 60 days was "as soon as" it was "practicable" to identify the defect.