



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

February 1, 1991

MEMORANDUM FOR:

Samuel J. Chilk, Secretary

FROM:

Kenneth M. Carr

SUBJECT:

COMSECY 91-001 -- RESOLUTION OF THE OFFICE OF
THE INSPECTOR GENERAL REPORT RECOMMENDATION
CONCERNING 10 CFR PART 21

I am not convinced that this question represents a significant problem demanding resolution in theory or in practice. Although a fixed evaluation period may ease the enforceability of the organizational evaluation process, the Commission's enforcement options are constrained under Part 21 in these circumstances and, thus, establishment of an absolute 60 day period does not significantly enhance the NRC's enforcement posture over the requirement in the previously approved version of the rule to establish reasonable nominal evaluation times. Nonetheless, I recognize that fixing a time limit for evaluation might avoid some arguments over the reasonableness of an organization's evaluation of potentially reportable items, and I am willing, therefore, to reconsider the issue of a fixed evaluation period for potential defects and noncompliances in the 10 CFR Part 21 rule revision. Sixty days appears to be an appropriate time limit for most cases requiring evaluation.

In reconsidering inclusion of such a time limit, the following factors will bear on my decision:

- The rule must clarify the start-time of the evaluation period. Does it start when anyone in the organization suspects a defect or noncompliance exists, or does it start when such suspicion is documented in an established licensee/vendor deficiency reporting/evaluation system?
- This fixed time limit in the rule will undoubtedly result in some "interim" reports as more complex evaluations continue. The staff paper, or supplementary information accompanying the proposed rule, should address anticipated action by the NRC staff on receipt of interim or preliminary reports.
- The proposed rule package should address consistency with other reporting requirements (e.g., 10 CFR 50.73), and should clearly indicate that a Part 21 evaluation in progress does not excuse earlier reporting under other requirements.

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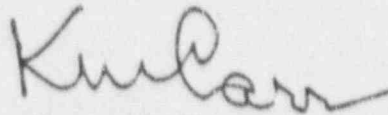
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Subj: In addition to the above, the staff should propose, for Commission consideration, a Part 21 rule modification package that includes an evaluation time limit.

I would also like the staff to inform the Commission of its schedule for completing other actions in response to the OIG's audit report.


Kenneth M. Carr

cc: Commissioner Rogers
Commissioner Curtiss
Commissioner Remick
EDO
OGC