

October 23, 1997

MEMORANDUM Commissioner Diaz
TO:
FROM: John C. Hoyle, Secretary /s/
SUBJECT: COMNJD-97-006 - COMMISSION PROCEDURES: FURTHER ISSUES

This memorandum is to inform you that the Commission has concurred in your proposal regarding prompt service of letters containing ex parte material. The Office of the Secretary intends to follow this approach. In addition, the Commission concurred in your proposals to allow public release of COMs and COMSECYs, the Staff Requirements Memoranda (SRMs), and Commissioners' votes subject to the same restrictions that currently apply to the release of SECY papers, SRMs, and voting records. The Commission also concurred in your recommendation to conduct a systematic, across-the-board review of the procedures, in coordination with the Office of the General Counsel, to ensure consistency with legal requirements. Areas where there is uncertainty as to whether current practice conforms to internal procedures and to legal requirements should be identified. The review should include an assessment of, and recommendations on, earlier public release of SECY papers, subject to the normal restrictions on release, and the current negative consent process. The attached SRMs provide direction on these issues.

This completes action on COMNJD-97-006.

Attachment: As stated

cc: Chairman Jackson
 Commissioner Dicus
 Commissioner McGaffigan
 EDO
 OGC

October 23, 1997

MEMORANDUM TO: Karen D. Cyr,
 General Counsel
FROM: John C. Hoyle, Secretary /s/
SUBJECT: STAFF REQUIREMENTS - COMNJD-97-006 - COMMISSION PROCEDURES: FURTHER ISSUES

The Commission has approved initiation of a systematic review of the Internal Commission Procedures in coordination with the Office of General Counsel, to ensure consistency with legal requirements and conformance with internal procedures. Areas where there is uncertainty as to whether current practice conforms to internal procedures and to legal requirements should be identified. The review should include an assessment of, and recommendations on, earlier public release of SECY papers, subject to the normal restrictions on release, and the current negative consent process. The Office of the Secretary has the lead in performing the review and preparing a Commission paper by February 27, 1998. I understand that Mr. William Olmstead is the OGC contact for this review.

cc: Chairman Jackson
 Commissioner Dicus
 Commissioner Diaz
 Commissioner McGaffigan
 EDO
 CIO
 CFO
 OCA
 OIG

October 23, 1997

MEMORANDUM TO THE FILE

FROM: John C. Hoyle, Secretary /s/
SUBJECT: STAFF REQUIREMENTS - COMNJD-97-006 -COMMISSION
PROCEDURES:FURTHER ISSUES

1. Ex Parte Communications.

The Commission has directed that, as a matter of practice, ex parte communications about pending adjudications should be served to the parties promptly when they are received, regardless of their source. A standard-format response should be provided to the sender explaining that in conformity with the NRC's rules on handling of such communications, it has been served on the parties to the proceeding. If a further staff response is called for, this letter can tell the writer to expect the staff to respond shortly to the merits of the incoming letter.

Ex parte communications include those received from parties to the proceeding, participants under 10 CFR 2.715(a), other public officials, competitors, and nonprofit or public interest organizations and associations with a special interest in the proceedings. Communications received from a member of the public at large who makes a casual or general expression of opinion about a pending proceeding are not considered ex parte communications under NRC regulations. See 51 Fed. Reg. 10393, 10396 (March 26, 1996). (NRC staff communications to the Commission are governed by separation of function rules found at 10 CFR Section 2.781.)

2. Public Release of COMs.

In addition, the Internal Commission Procedures should be revised to allow release of COMs and COMSECYs, the Staff Requirements Memoranda (SRMs), and Commissioners' votes subject to the same restrictions that currently apply to the public release of SECY papers, SRMs, and voting records.

(SECY)

(SECY Suspend: 10/31/97)

3. Review of Internal Commission Procedures.

a. The Commission has also approved initiation of a systematic review of the Internal Commission Procedures in coordination with the Office of General Counsel, to assure consistency with legal requirements and conformance with internal procedures. Areas where there is uncertainty as to whether current practice conforms to internal procedures and to legal requirements should be identified to the Commission in a Commission paper.

b. The Office of the Secretary should prepare a Commission paper and make a recommendation to the Commission on the following:

I) routinely releasing SECY papers (subject to the normal restrictions on release) at an earlier time than is currently the practice, to allow earlier public access to the SECY papers. The evaluation of various options for release should include the pros and cons of different points of time for release of the SECY papers, considering factors such as the benefits of public access and Commissioners' opportunity to be familiar with the issues discussed in SECY papers.

II) the negative consent process, and whether there is a need for three categories of papers (those with formal votes, negative consent papers, and information papers).

(SECY/OGC)

(SECY Suspend: 2/27/98)

cc: Chairman Jackson
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
EDO
OGC
CIO
CFO
OCA