

September 4, 1998

MEMORANDUM Karen D. Cyr General Counsel

TO:

FROM: John C. Hoyle, Secretary /s/

SUBJECT: STAFF REQUIREMENTS - SECY-98-197 - PROPOSED RULE -- REVISION TO PART 2
ESTABLISHING SUBPART M TO GOVERN REQUESTS FOR LICENSE TRANSFER APPROVAL AND
ASSOCIATED REQUESTS FOR HEARINGS

The Commission has approved publication of the proposed rule to establish Subpart M to 10 CFR Part 2 to govern the procedures used for license transfer approval and associated requests for hearings.

The Office of the General Counsel should incorporate the changes noted in the attachment and publish the proposed rule in the Federal Register for a 30-day comment period.

The staff should seek legislation that supports the NRC's reading of section 189a of the Atomic Energy Act to reflect the reading that formal adjudications are not required. Further, with the anticipated application from USEC for the AVLIS uranium enrichment process expected early next year, the NRC should consider seeking legislation that would modify section 193's inflexible approach to hearings.

The staff should review and advise the Commission on the legislative and rulemaking options that would further enhance the Commission's ability to utilize informal procedures in any proceeding in which formalized trial-type procedures are currently used.

(OGC)

(SECY Suspend: 12/31/98)

Attachment: As stated

cc: Chairman Jackson
Commissioner Diaz
Commissioner McGaffigan
EDO
CIO
CFO
OCA
OIG
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR
DCS

Changes to the Federal Register Notice in SECY-98-197

1. On page 1, line 2, replace 'Part 2 of its regulations' with '10 C.F.R. Part 2.'
2. On page 2, paragraph 1, line 2, delete the extra space after 'Section.' In paragraph 2, line 2, add a comma after the zip code.
3. On page 3, first full paragraph, line 1, add a period after the 'C.' In the second full paragraph, line 6, delete 'complex' and in line 8, replace 'typically' with 'historically.' Also in the second full paragraph, line 10, insert a new sentence after 'facility' as follows: "It is a matter suitable for reasonable discussion whether such complex hearing procedures provide the best means for reaching decisions on such technical issues, but, be they the best or not, they clearly are not required and are not the most efficient means for resolving the issues encountered in license transfers." In the last indented paragraph, line 2, delete 'any.'
4. On page 4, line 1, add a comma after 'proceeding.' In the heading (line 3), add a period after 'C.' In the first full paragraph, delete the extra space before the start of the new sentence, and in the last line, insert a comma after 'NRC' and a close parenthesis at the end. In the quotation at the end of the second full paragraph, cite a page number from the decision. Also in the second full paragraph, line 4, insert a hyphen between 842 and 844, and in line 5, change the 'V.' to lowercase.
5. On page 5, in the third full paragraph, line 3, move 'only' to after 'required.'
6. On page 8, in the paragraph under Environmental Issues, line 3, replace 'affects' with 'effects.'

7. On page 11, last paragraph, line 8, remove the extra spaces in 'U.S.C.' In line 11, replace 'business' with 'businesses.'
8. On page 12, in paragraph number 2, line 1, delete the extra space prior to the first comma.
9. On page 13, in paragraph number 4, item (b), line 3, delete 'a.' In paragraph number 5, line 2, replace 'licensed' with 'license.'
10. On page 16, insert a return between item (1) and (2).
11. On page 17, under §2.1307, item (b), line 2, replace 'all timely answers have been served' with 'service of that answer.' Under §2.1308, item (a)(3), line 1, replace 'any order' with 'an order granting the request for license transfer.' In item (c), line 1, delete 'that.'
12. On page 19, last paragraph, line 2, delete the extra space in 'U.S.'
13. On page 20, under §2.1314, item (c), line 2, insert 'regular' prior to 'mail.'
14. On page 21, under §2.1316, item (b), line 1, change '(8)' to '(7).'
15. On page 22, under §2.1319, item (b), line 4, insert 'and the Presiding Officer or other such person is not the Commission or a Commissioner,' after 'himself,'. In item (c), line 1, replace the '/' with 'or.'
16. On page 25, under §2.1324, items (a) and (b), replace the '/' with 'or' in the 4 places it appears.
17. On page 27, under §2.1330, item (b), line 3, delete the extra space in 'U.S.'