

August 13, 1999

MEMORANDUM TO: William D. Travers
Executive Director for Operations

FROM: Annette Vietti-Cook, Secretary /s/

SUBJECT: STAFF REQUIREMENTS - SECY-99-036 - PROPOSED RULEMAKING ACTIVITY PLAN

The Commission has approved the staff's recommendation to implement the Rulemaking Activity Plan as described in [SECY-99-036](#), subject to the following comments. Rulemaking plan updates should be provided to the Commission annually. The next one should be provided by March 31, 2000.

(EDO) (SECY Suspense: 3/31/2000)

General Comments

1. The staff indicates in SECY-99-036 that "due to staff reassignments and other high priority actions directed by the Commission, the staff proposes to place one rulemaking on hold and reprioritize three rules to low priority." While limited resources may unfortunately result in scheduler delays, it should not form the basis for prioritization of a rulemaking. The staff should reassess the priorities of the rulemakings (particularly the three rules that were downgraded in this update) based on the merits of the proposed rules and assign staff to work on the rulemakings in accordance with their inherent priorities.
2. The staff proposes to include information in subsequent revisions to the RAP indicating whether a proposed rulemaking falls into one of the following three categories: (1) rulemaking uses a performance-based approach, (2) rulemaking uses a less-prescriptive approach, or (3) not a risk-informed rulemaking. The staff's proposed categorization is incomplete. There are risk-informed rulemakings that neither utilize a performance-based approach nor are less-prescriptive. For example, the revised source term rulemaking is clearly risk-informed, but does not meet the other two criteria. Consequently, the staff needs to expand the categories accordingly.
3. In future updates, the staff should point out in the introduction to Attachment 1, "Summary of Changes," which rulemakings have been completed since the last update to the rulemaking plan.
4. The staff should add a new item to the next rulemaking activity plan to document efforts to assist the Environmental Protection Agency in identifying efficient disposal alternatives for mixed waste containing low-level radioactive waste.

Comments on Specific Rulemakings

1. NRR-C1HP-52 (pg. CI-19)(Use of Potassium Iodide (KI) by the General Public After a Severe Accident at a Nuclear Power Plant) - The target completion date should be consistent with issuance of the proposed rule.
2. NRR-C4B-24 (pg. CIVB-3)(Reduction of Additional Reporting Requirements Imposed on NRC Licensees) - The staff should update the information on this rulemaking to reflect the current situation.
3. NRR-C4B-26 (pg. CIVB-3)(Alternative Site Reviews) - The staff should provide its bases for its recommendation to not proceed with rulemaking at this time and any additional information pertaining to the status of this rulemaking.
4. NRR-C5-46 (pg. CV-3)(Performance-Oriented Requirements for Fire Protection of Nuclear Power Facilities) - Under recommendation to proceed, it appears the "Yes" should be "No", since the rule is being dropped. The staff should make any necessary corrections.
5. NRR-C3MP-34 (pg. CIII-7)(Use of Simulators in Operator Licensing) - This presents a prime opportunity to eliminate unnecessary burden while increasing the efficient use of NRC resources. The staff should move it from Medium to Higher priority within Category III (Rules Being Planned).
6. NMSS-C5-38 (pg. CV-2)(Storage of Greater Than Class C Waste, Part 72) - The staff should move this from Category V (Drop) to Category I (Active Rules) to reflect the Commission's decision in the SRM for COMSECY-98-030.
7. NMSS-C3MP-26 (pg. CIII-6)(IAEA Transportation Standards) - The staff should routinely inform the Commission of its progress in working with the Department of Transportation and the International Atomic Energy Agency to revise current transportation standards, particularly standards for acceptable levels of removable contamination on packages containing spent nuclear fuel.
8. NMSS-C3LP-07 (pg. CIII-8)(Decommissioning Funding Certification) - It is unclear from the write-up whether the rulemaking is limited to "accounting for inflation" or whether it also takes into account technical changes that have occurred since 1988, for example, in waste compaction. This should be clarified in subsequent reports.

9. NMSS-C3LP-08 (pg. CIII-9)(Radiography Equipment) - This item was moved from a high priority to a low priority in this RAP. The write-up states that the current rule is very prescriptive and often requires exemptions. Since this rulemaking would be a burden reduction, the staff should look for efficiency gains in this project so as to move this item from "low priority" to at least a "medium priority" with minimal if any resource increase.
10. NMSS-C4A-07 (pg. CIVA-1)(PRM-20-21) - The staff's write-up should include a status report or, at minimum, describe what information or action is needed to allow NRC to make a decision on this 1993 petition.
11. NMSS-C4A-19 (pg. CIVA-2)(PRM-72-03) - The write-up appears incomplete in that it states that the petition has been *partially* resolved but does not state whether the remaining portions of the petition were denied or not yet resolved. The staff should clarify this in subsequent updates to the RASP.
12. NMSS-C4B-19 (pg. CIVB-2)(Transfer of Part 40 material) - Given recent Commission decisions on related issues, sentences 6 and 7 under the "Objective" section should be deleted and replaced with the following:

"The rule is currently silent on whether specific licensees may transfer unimportant quantities of source material to persons exempt from licensing for the purpose of disposal of such material. One purpose of this rulemaking would be to make explicit whether NRC prior approval of such transfers is needed to adequately ensure public health and safety."

cc: Chairman Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
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