

June 28, 2000

MEMORANDUM TO: William D. Travers

Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary /RA/

SUBJECT: STAFF REQUIREMENTS - SECY-00-0117 - RULEMAKING PROCESS FOR REVISING [10 CFR PART 71](#) FOR COMPATIBILITY WITH IAEA TRANSPORTATION SAFETY STANDARDS [ST-1], AND TO MAKE OTHER CHANGES

The Commission has approved the staff's recommendation to use an enhanced-public-participation process (web-site and public meetings) in the [10 CFR Part 71](#) rulemaking; and to publish, for public comment, an issues paper in the Federal Register that discusses NRC's plan to revise 10 CFR Part 71 and provides a summary of the changes being considered, subject to the attached changes to the Federal Register notice.

The staff should have informal communication with the Commissioners' Technical Assistants to provide feedback to the Commission on the public meetings scheduled for this summer on the 10 CFR Part 71 rulemaking and the comments received, the staff's progress on the 10 CFR Part 71 rulemaking, and the status of DOT's rulemaking effort. The Commission office principal points of contact for periodic briefings are:

Ron Zelac, Office of Chairman Meserve

Joe Olencz, Office of Commissioner Dicus

Diane Flack, Office of Commissioner Diaz

Janet Schlueter, Office of Commissioner McGaffigan

John Thoma, Office of Commissioner Merrifield

After conduct of the public meetings scheduled for this summer, the staff should proceed directly to develop a proposed rule for submittal to the Commission by March 1, 2001.

Attachment: [Changes to the Federal Register Notice](#)

cc: Chairman Meserve

Commissioner Dicus

Commissioner Diaz

Commissioner McGaffigan
Commissioner Merrifield
OGC
CIO
CFO
OCA
OIG
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR

ATTACHMENT

Changes to the Federal Register Notice

1. The Federal Register notice should be revised to include a schedule with key milestones for development of a revised 10 CFR Part 71 consistent with the staff plan to submit a final rule to the Commission for approval in June 2002, concurrent with the timing of a final Department of Transportation (DOT) rule.
2. Appendix A of the Federal Register notice should be revised to include the referenced Tables I and II and Figures 2, 3 and 4 from ST-1 to enhance the public's participation in the rulemaking process.
3. The Federal Register notice should be revised to state that, contrary to NRC's rulemaking process under the Administrative Procedure Act, development of the International Atomic Energy Agency's (IAEA) Safety Series No. ST-1 for the transport of radioactive material did not directly involve the public or include a cost-benefit analysis to our knowledge. In contrast, NRC is bound to consider costs and benefits in its regulatory analyses, and is prepared to differ from the ST-1 standards, at least for domestic purposes, to the extent the standards can not be justified from a cost-benefit perspective.

4. The staff should revise the issues paper prior to its release to:

a. add a new issue eighteen to discuss the current IAEA standard for package surface removable contamination (i.e., 4 Becquerel per centimeter squared) applied to spent fuel and high-level waste (HLW) containers; and

b. modify Issue 2, "Radionuclide Exemption Values," which allows certain packages containing radioactive material to be shipped without being labeled as or considered radioactive, to capture the possibility of unintended consequences in implementing ST-1's concentration values in areas outside of transportation and to request stakeholder help in assessing those consequences. The current discussion in the issues paper should be expanded to more clearly discuss the fact that the DOT current exempt material standard of 2000 picoCurie per gram (2000 pCi/gm), based on previous IAEA transportation standards, has application by cross reference outside the domain of transportation. Therefore, the staff should engage the industries, organizations, and State and Federal agencies most likely to be potentially impacted from adopting the new IAEA values to ensure that all stakeholders have an opportunity to provide input on this matter.

The staff should be prepared at the public meetings to explain its or the Commission's previous positions on the issues and to discuss the staff's current views, subject to acknowledgment that the staff's and the Commission's final views have not been determined, and to seek public comment on items 4.a and 4.b (above) at the public meeting.