

May 6, 2003

MEMORANDUM TO: William D. Travers
Executive Director for Operations

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

SUBJECT: STAFF REQUIREMENTS - SECY-02-0077 - PROPOSED RULE
TO UPDATE 10 CFR PART 52, "EARLY SITE PERMITS,
STANDARD DESIGN CERTIFICATIONS, AND COMBINED
LICENSES FOR NUCLEAR POWER PLANTS"

The Commission has approved publication of the proposed rule to update 10 CFR Part 52 and the other related revisions to the regulations in the *Federal Register* subject to the comments and changes noted below and in the attachment.

(EDO)

(SECY Suspense:

6/20/03)

The staff should consider the Commission comments on the two related industry petitions for rulemaking (SECY-02-0175 and SECY-02-0199) and any changes that would appropriate for this rulemaking.

The staff should maintain the "substantial increase" threshold for severe-accident-related information rather than apply the "more than minimal increase" threshold of 10 CFR 50.59.

Prior to publication, the duration of a Final Design Approval should be changed from five to 15 years to correspond to the duration of design certification.

With respect to the proposed wording of 52.211(d)(1), the last sentence should not include "construction permit, duplicate design license, or" since that section of the proposed rule is within the subpart on combined licenses. Therefore, proposed §52.211(d)(1) should only refer to combined licenses. Additionally, the last sentence of §§ 52.39(b) and 52.39(c) should include "duplicate design license" based on the same reasoning.

The existing requirement for the NRC to publish successful ITAAC completion (section 52.99) should be retained, rather than the change proposed by the staff (proposed section 52.229) that the NRC publish instead notices only of the licensee's notification that the licensee believed that ITAACs had been successfully completed.

The staff should continue its efforts to bring about the statutory changes necessary to allow licensees to operate facilities that gain an operating license under Part 52 for at least 40 years from the time acceptance criteria are met. The Commission does not support the changes to §§ 52.83 and 52.97 related to the beginning date for the term of a combined license. The current §§ 52.83 and 52.97 should remain unchanged until such time that the statute is clarified or a licensee

is impacted by the regulation.

For consistency, in 52.39 (b), "operating license" should be inserted in the first sentence and in 52.39 (c), "duplicate design license" should also be included in the first sentence. The staff should review the proposed rule package prior to publication and make necessary minor editorial changes for correctness and consistency.

Attachment: Changes to the *Federal Register* notice in SECY-02-0077

cc: Chairman Diaz
Commissioner Dicus
Commissioner McGaffigan
Commissioner Merrifield
OGC
CFO
OCA
OIG
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR

Attachment

Changes to the *Federal Register* notice in SECY-02-0077

1. On page 9, last paragraph, revise line 3 to read ‘ ... reactor design **to which** that the Commission intended **to refer** ~~is referring~~ to in the’
2. On page 13, last paragraph, revise line 5 to read ‘ ... “Site characteristics” **are** to be’
3. On page 35, revise line 9 from the top to read ‘ ... issued under Section **185b 189.a.(1)(B)**.’
4. On page 35, footnote 1, revise line 14 to read ‘ ... EPA modified Sections **185 and** 189 of the’
5. On page 42, line 3 from the top, delete the comma. Revise line 5 from the top to read ‘... adequate protection **of** ~~to~~ public health’
6. On page 43, last paragraph, revise line 5 to read ‘ ... site permit appears to fall’
7. On page 44, delete the sentence in lines 7 through 9 from the top (Accordingly, the Commission ... application.) Replace it with the following: “Thus, no changes to Part 21 are necessary to reflect the Commission’s intent.”
8. On page 57, revise lines 1 and 2 from the top to read ‘ ... been met, and in **reviewing** ~~developing~~ the **licensee’s proposed** inspections, tests, and’
9. On page 58, paragraph 1, revise the next to last line to read ‘ ... current holder **of** ~~or~~ an early site’
10. On page 85, 1st full paragraph, revise line 4 to read ‘ ... and the plant ~~itself~~ from the’
11. On page 89, paragraph (2)(i), revise line 3 to read ‘ ... **Federal Emergency Management Agency (FEMA)** in the absence’ In paragraph (2)(ii), revise line 2 to read ‘ ... with **FEMA** ~~the Federal Emergency Management Agency~~, in accord’
12. On page 91, revise lines 4 and 5 from the top to read ‘ ... consultation with **FEMA** ~~the Federal Emergency Management Agency~~, whether the’
13. On page 105, paragraph (vi), lines 1 and 2; and paragraph (viii), line 4, move “inspections” prior to “tests”. In paragraph (vi), revise line 1 to read ‘ ...acceptance criteria **(ITAAC)** necessary and’
14. On page 122, paragraph (b), revise lines 2 and 3 to read ‘ ... all requirements in **this chapter of Title 10** ~~title 10 of this chapter~~ applicable to’
15. On page 130, 1st full paragraph, revise line 3 to read ‘ ... to the “commencement **of** and construction,” as’

16. On page 134, paragraph 1, revise line 1 to read ‘ ... requirements in ~~title 10~~ of this chapter of Title 10 applicable to’ Revise line 2 to read ‘ ... licenses under ~~title 10~~ of this chapter of Title 10, except’
17. On page 135, paragraph (3), revise line 1 to read ‘ ... and development ~~has~~ have’